

SMALL BUSINESS: CURRENT PROBLEMS AND OPPORTUNITIES

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FOREWORD

This study on small business was undertaken in response to Senate Concurrent Resolution No. 102, S.D. 1, and House Resolution No. 260, H.D. 1, adopted during the 1987 legislative session.

The report identifies and reviews problems and issues of high priority concerns of small businesses in Hawaii and existing business programs and services available to small businesses in the State, as well as identifies and reviews various business development programs and services for small business which have been established in other jurisdictions.

We wish to express our sincere appreciation to the many individuals and organizations who have generously contributed their time, cooperation, and assistance to our efforts in conducting this study. We wish to also extend our special thanks to Mr. Thomas J. Smyth, Division Head, Business and Industry Development Division, Department of Business and Economic Development; Ms. Bette Tatum, Chairperson, Governor's Small Business Advisory Committee; and Mr. Ivan Hankins, Assistant District Director for Finance and Investment, U.S. Small Business Administration, Honolulu District Office, whose cooperation and assistance were invaluable.

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Chapter 1

INTRODUCTION

During the 1987 Regular Session, the Legislature adopted two resolutions, Senate Concurrent Resolution No. 102, S.D. 1, and House Resolution No. 260, H.D. 1 (copies of which are included as Appendix A), relating to the state of small business in Hawaii.¹ The resolutions requested the Legislative Reference Bureau (hereafter "Bureau") to conduct a broad study to identify, examine, and propose solutions to high priority problems and issues of small businesses and to consider the following subjects in particular:

- (1) Small business incubators;
- (2) Business incentive programs;
- (3) Small business development centers;
- (4) One-stop permitting and financial assistance centers;
- (5) Regulatory flexibility legislation;
- (6) Utilizing the expertise of the private sector to develop appropriate curricula for entrepreneurship education; and
- (7) Identification of government policies that specifically relate to small business.

The resolutions also requested the Bureau to consult with various government agencies and business organizations.²

Methodology

Due to the limits of time, instead of attempting to organize and convene the "ad hoc citizen's panel referred to in H.R. No. 260, H.D. 1, the Bureau³ incorporated within this report a brief summary on the strengths and weaknesses of Hawaii as a business location, based upon the fairly recent report of the Governor's Committee on Doing Business in Hawaii,⁴ which itself was an advisory committee representing a broad range of business organizations in the State.

The primary focus of this study includes: (1) identifying issues and problems of high priority to small business in Hawaii; (2) identifying existing government and private programs and services for small business in Hawaii; (3) identifying state laws, rules, or policies specifically relating to small business; (4) identifying other states' programs and services relative to small business incubators, small business development centers, one-stop permitting centers, regulatory flexibility legislation, entrepreneurial education, and other business incentive programs and services.

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Inquiries were sent to the local business organizations which the resolutions requested the Bureau to consult with in preparing the study. The organizations were asked to ascertain from their members: (1) issues and problems of high priority to those members; (2) any laws, rules, or government policies perceived to be overly burdensome, impractical, or unnecessary for small businesses; and (3) services provided by the organization.⁵ Personal interviews were conducted with representatives from several business organizations, including The Chamber of Commerce of Hawaii, the Honolulu Minority Business Development Center, and the Governor's Small Business Advisory Committee.

Inquiries were also sent to those state and other governmental agencies identified in the resolutions as agencies with which the Bureau should consult, requesting information on any laws, rules, or policies administered by the agencies which relate specifically to small business, or the types of programs or services available to small business, or both.⁶ In addition, personal interviews were held with several representatives from government agencies, including the Department of Business and Economic Development, the Department of Education, the High Technology Development Corporation, and the United States Small Business Administration, Honolulu District Office.

For the purpose of this study, relative to inquiries sent to state government agencies, "small business" was defined as any for-profit business, including, but not limited to, any sole proprietorship, partnership, corporation, joint venture, association, or cooperative, which, including its affiliates, has less than 100 employees (full- and part-time), and which is not dominant in its field. A small business concern is not "dominant in its field" when it does not exercise a controlling or major influence on a statewide basis in a kind of business activity in which a number of business concerns are primarily engaged. Factors that may be considered in determining whether dominance exists, are the volume of business, number of employees, financial resources, competitive status or position, sales territory, ownership or control of materials, processes, patents, license agreements, and nature of business activity. Business concerns are "affiliates" of one another when one directly or indirectly controls or has the power to control the other, or a third party controls or has the power to control both. Control can be exercised through common ownership and common element.

With regard to other states' programs and services relative to (1) regulatory flexibility legislation; (2) one-stop permitting centers; (3) small business development centers; (4) entrepreneurship education; and (5) business incentives such as business incubators, venture capital programs or legislation; inquiries were sent to the other 49 states.⁷

Other data gathering activities, in addition to review of materials provided by the private entities and government agencies which responded, included the review of written material such as reports, studies, periodicals, newspaper articles, law review articles, and business catalogs pertinent to small business or economic development, or both.

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Organization of the Report

The report is organized as follows:

Chapter 1 introduces the report.

Chapter 2 discusses small business and its impact on the economy as well as policy considerations in developing business development incentives.

Chapter 3 discusses various business incentive programs and services.

Chapter 4 discusses the past and current problems and issues of small businesses.

Chapter 5 contains findings and recommendations, followed by appendices.

Chapter 2

SMALL BUSINESS AND ITS IMPACT ON THE ECONOMY

Economy of the State

An indicator of a state's general economic health is the Gross State Product (GSP) (total money value for all goods and services produced in the State during one year). In 1986, Hawaii experienced a four per cent real increase in the value of goods and services produced over the 1985 GSP.¹ Primary contributors to that growth were the tourism and construction industries, in which visitor spending and construction expenditures accounted for approximately \$5.7 billion and \$1.8 billion, respectively.²

For the past several years the nonagriculture wage and salary job count has steadily continued to increase while the agriculture wage and salary job count has continued to decline. In 1986, preliminary data indicate there were approximately 11,400 or 2.7 per cent more nonagriculture wage and salary jobs, and 250 less agriculture wage and salary jobs, as compared to 1985.³ The total number of nonagriculture wage and salary jobs were approximately 437,200 for 1986, and 425,750 for 1985.⁴ For the same years, the total number of agriculture wage and salary jobs were 10,400 and 10,150, respectively.⁵

As a result, the State's civilian unemployment rate has also improved steadily from 5.6 per cent for 1985 to 4.8 per cent for 1986.⁶ The most recent available information from the Research and Statistics Office of the state Department of Labor and Industrial Relations, reveals a 3.8 per cent unemployment rate for the third quarter of 1987.⁷

Federal defense spending declined approximately 9 per cent in 1986 from approximately \$1.965 billion in 1985 to approximately \$1.785 billion in 1986.⁸ "The primary cause of the decline was a 30 percent drop in defense spending for locally purchased goods and services... [However,] [f]ederal construction contracts showed an increase of 36 percent in 1986, indicating that local defense construction spending may bounce back [for 1987.]"⁹ For the same period, diversified agriculture (including the self-employed) and the sugar growing and processing industries experienced a drop in employment of 7.4 per cent and 3 per cent, respectively.¹⁰

On the other hand, at least two sub-industries experienced employment growth in 1986. Pineapple growing and processing recorded a 4 per cent increase, and diversified manufacturing recorded a slight increase of over 1 per cent.¹¹

Other economic indicators provide further evidence of a growing economy in 1986 as compared to 1985 with an increase in personal income of 6.1 per cent for the first three quarters of 1986; consumer prices increased only 2.4 per cent, the lowest since 1983; business activity (volume of taxable transactions subject to state excise and use taxes) increased approximately 7 per cent; recorded mortgages increased approximately 63 per cent; and the number of visitors arriving in Hawaii increased approximately 15 per cent.

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In 1986, the services and trade (wholesale and retail) industries constituted approximately 65 per cent of the total wage and salary jobs in Hawaii. A breakdown of the number of jobs and corresponding percentages by industry is provided below in Table 1:¹²

Table 1

BREAKDOWN OF NUMBER OF JOBS AND CORRESPONDING PERCENTAGES BY INDUSTRY

<u>Industry</u>	<u>Number of Jobs</u>	<u>Per Cent</u>
TOTAL	363,650	100.0
Agriculture (sugar, pineapple, and diversified agriculture)	10,150	2.8
Construction, manufacturing, and food processing	51,200	14.0
Finance, insurance, and real estate	32,900	9.0
Services	118,750	33.0
Trade (wholesale and retail)	116,700	32.0
Transportation, communication, and utilities	33,950	9.4

A comparison of the major industries from 1970 to 1985 indicates the services and trade industries experienced the most employment growth with a combined increase of 12 per cent, while the construction, manufacturing, and mining industries experienced an off-setting 11 per cent decline in employment. A slight gain in employment was experienced by the finance, insurance, and real estate industries; however, it was nullified by corresponding declines in the transportation, communications and utilities, and agriculture industries. For 1970 and 1985, the distribution of private employment by industry are as follows:

Table 2

DISTRIBUTION OF PRIVATE EMPLOYMENT BY INDUSTRY (1970 and 1985)

<u>Industry</u>	<u>1970</u>	<u>1985</u>
Agriculture	4.9%	3.3%
Construction, manufacturing and mining	22.5	11.3%
Finance, insurance and real estate	7.6%	9.3%
Services	24.1%	32.6%
Trade	30.4%	33.8%
Transportation, communications, and utilities	10.5%	9.7%

Source: Bank of Hawaii, Business Trends, January/February, 1987.

It is evident that a substantial portion of the private sector jobs are in industries such as services, which tend to be of lower-skill and lower pay as compared to higher-skill and higher paying jobs in industries which are

producers of goods and providers of construction services. Further, employment growth which has been centered within the service industries may be due to the increased growth of the tourism industry. However, employment growth in the service industries has its disadvantages in terms of employee wages. According to a state economist, one of the reasons that Hawaii is a low wage state is the increase in the number of jobs created by the service industries.¹³ Further, "Hawaii's service-based economy has also created a low-wage base that has had a domino effect on wages paid by employers in other industries. If a worker in retailing earns \$3.50 an hour, a small businessman is likely to hire a clerk or salesperson at the same rate."¹⁴

The dominance of the visitor industry in the State's economy is further exemplified by its growth in terms of its share of the State's GSP from 9 per cent in 1963 to 24 per cent in 1983.¹⁵ Further, official state projections indicate that wage and salary jobs are expected to grow approximately 37 per cent from 412,200 in 1980 to 564,300 in 2005, of which a majority of the new jobs will be in the nonmanufacturing and service industries.¹⁶

In addition, Hawaii's dependence on imported goods for consumer consumption has increased to the point where many goods are almost totally imported, indicating a continuing decline in economic self-sufficiency. It has been stated that "[o]ne of the strongest indicators" of the "overall trend of declining self-sufficiency" is that "those economic activities which have been identified as having the best growth potential depend on overseas markets and decisions--tourism, federal expenditures, the film industry, and items for export fruits, macadamia nuts, flowers, Hawaiian apparel, tuna, prawns, etc.)."¹⁷ Factors which inhibit the growth for overall economic self-sufficiency include "[t]he lack of natural and production resources, a small local market that cannot support large-scale, mechanical operations, and a lack of a large pool of laborers having specialized skills required to produce a large variety of goods...."¹⁸

In summary, the State's overall economic picture shows a heavy dependence upon a few industries, primarily tourism and related service industries. Projected growth in these industries indicates a continuing trend towards this dependence affecting the types of jobs, personal income, and lifestyle of Hawaii's people, which will ultimately affect the State's long-term economic health.

Small Business and Its Impact on the Economy

In 1984, on the national level firms with fewer than 100 employees, accounted for 33 per cent of all jobs, and about 50 per cent of all jobs in the construction, wholesale trade, and retail trade were in small firms.¹⁹ In Hawaii, for the same year, firms with fewer than 100 employees accounted for approximately 66 per cent of all jobs, and constituted 98 per cent of all business establishments.²⁰

Current data from County Business Patterns, 1985, on Hawaii's business establishments by employment class size indicate that businesses employing less than twenty employees account for 87.4 per cent of all business establishments. More than one-half of the business establishments employ one

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to four employees. Businesses employing less than 100 employees account for 98.3 per cent of all business establishments. More than three-fourths of all business establishments are located in the city and county of Honolulu. The other three counties were led by Hawaii and Maui, each with approximately 10 per cent, and Kauai with approximately 5 per cent. (See Table 3.)

In 1985, the total annual payroll for all establishments in Hawaii amounted to \$5,223,950,000, of which, 62 per cent was attributable to businesses employing less than 100 employees.²¹ These dollars, to the extent they are subject to income taxes and which contribute, to a degree, to excise taxes, represent an important source of revenue to the State's coffers.

It is significant to note that in each of the six major industry classifications, 95 per cent or more of the total number of business establishments in Hawaii for 1984 and 1985 had fewer than 100 employees. (See Table 4.) However, as indicated in Table 4, from 1984 to 1985 the services, trade (wholesale and retail), and the construction, manufacturing and mining industries experienced a slight increase in the number of establishments, approximately 4 per cent, while the agriculture services, forestry, and fisheries industries experienced an off-setting decline in number of establishments of approximately 3 per cent.

Another indicator of business growth is new business formation versus business failures.²² Most current available data for Hawaii indicate new business incorporations increased 8.1 per cent while business failures increased an off-setting 9.3 per cent from 1984 to 1985.²³ On the national level, a 5.3 per cent increase in new business incorporations, and a 9.5 per cent increase in business failures were registered for the same period.²⁴ Thus, apparently for Hawaii, the generation of new jobs by new small firms almost offsets losses due to business failures.

In 1984, the distribution of employees in small businesses for all industries in Hawaii (65.8 per cent) doubled the national figure (33 per cent).²⁵ (See Table 5.) In terms of employment growth within small businesses, Hawaii has experienced nominal increases in the number of employees in businesses with less than 100 employees over a five-year period. As indicated in Table 5, employment gains were most notable for 1984 and 1985 with an increase of 2.6 per cent and 2.8 per cent, respectively. It is also interesting to note that the employment distribution and establishment distribution in businesses with less than 100 employees have remained relatively constant throughout the five-year period, indicating stagnant growth for that particular establishment size group over a span of five years.

It is evident that Hawaii's business sector and industries are dominated by firms employing less than 100 employees. However, employment growth within these firms has been nominal, and any increases in the number of these firms when compared to the total number of business establishments indicate a static growth pattern from 1980 to 1985. Nevertheless, because of its dominant role small businesses within the State apparently have a substantial impact upon the State's economy.

Table 3

NUMBER OF ESTABLISHMENTS BY EMPLOYMENT CLASS SIZE AND INDUSTRY CLASSIFICATIONS FOR STATE AND COUNTIES--1985

	No. of Establish- ments*	Number of Establishments by Employment Size Class 1985					Total Number of Establishments with Less than 20 Employees		Total Number of Establishments with 20-99 Employees	
		1-4	5-9	10-19	20-49	50-99	Number	Per Cent	Number	Per Cent
STATEWIDE TOTAL	25,742	14,058	5,261	3,181	2,084	734	22,500	87.4	2,818	11.0
County:										
Hawaii	2,657	1,567	591	278	181	45				
Honolulu	19,340	10,473	3,818	2,439	1,640	615				
Kauai	1,209	648	279	152	96	18				
Maui	2,528	1,368	571	309	196	56				
SERVICES	8,145	4,789	1,705	842	484	160	7,336	90.0	644	7.9
Hawaii	785	468	202	68	27	8				
Honolulu	6,289	3,701	1,267	654	405	132				
Kauai	340	195	76	44	13	4				
Maui	729	425	160	74	39	16				
TRADE (WHOLESALE & RETAIL)	8,531	3,627	2,049	1,405	1,006	344	7,081	83.0	1,350	15.8
WHOLESALE	1,827	843	445	299	192	38				
RETAIL	6,704	2,784	1,604	1,106	814	306				
Hawaii										
Wholesale	168	75	56	22	13	2				
Retail	769	368	189	112	74	21				
Honolulu										
Wholesale	1,484	692	339	245	163	35				
Retail	4,734	1,926	1,089	801	590	250				
Kauai										
Wholesale	56	21	19	12	4	--				
Retail	398	167	108	61	53	9				
Maui										
Wholesale	117	53	31	20	12	1				
Retail	802	323	217	132	97	26				
CONSTRUCTION, MANUFACTURING, MINING	2,705	1,345	554	384	255	96	2,283	84.4	351	13.0
Hawaii	325	203	69	28	14	6				
Honolulu	2,014	932	413	314	220	85				
Kauai	134	83	24	15	8	--				
Maui	231	136	48	27	12	5				
TRANSPORTATION, COMMUNICATION, UTILITIES	1,088	471	205	158	137	68	834	76.7	205	18.8
Hawaii	107	47	18	19	12	8				
Honolulu	798	351	147	104	106	50				
Kauai	58	21	12	8	10	4				
Maui	124	52	28	26	9	6				
FINANCE, INSURANCE, REAL ESTATE	3,152	2,046	536	298	161	64	2,880	91.4	225	7.1
Hawaii	255	180	45	23	7	--				
Honolulu	2,493	1,615	402	245	124	61				
Kauai	122	75	27	11	7	1				
Maui	281	176	61	19	23	2				
AGRICULTURE SERVICES, FORESTRY, FISHERIES	225	129	57	23	13	2	209	93.0	15	6.7
Hawaii	25	18	4	1	2	--				
Honolulu	161	86	42	20	10	2				
Kauai	8	2	6	--	--	--				
Maui	31	23	5	2	1	--				

Source: U.S. Department of Commerce, Bureau of the Census, County Business Patterns 1985, Hawaii, CBP-85-13 (August 1987).

*Number of establishments represents total number of establishments for 1985. The figures for establishments by employment class size will not add up to the total number of establishments due to the exclusion of figures for establishments with 100 or more employees.

Table 4

COMPARISON OF NUMBER OF ESTABLISHMENTS BY EMPLOYMENT SIZE
AND INDUSTRY CLASSIFICATION FOR 1984 AND 1985

Industry	No. of Establishments	Number of Establishments by* Employment Size Class 1984						Per Cent of Establishments with Less than 100 Employees	No. of Establishments	Number of Establishments by* Employment Size Class 1985						Per Cent of Establishments with Less than 100 Employees	Change (%) in Number of Total Establishments 1984-1985
		1-4	5-9	10-19	20-49	50-99	1-4			5-9	10-19	20-49	50-99				
STATEWIDE TOTAL	25,093	13,588	5,225	3,167	1,990	709	98.0		25,742	14,058	5,261	3,181	2,084	734	98.0		2.6
SERVICES	7,869	4,669	1,625	807	455	155	98.0		8,145	4,789	1,705	842	484	160	98.0		3.5
TRADE (WHOLESALE & RETAIL)	8,239	3,496	2,031	1,370	913	333	99.0		8,531	3,627	2,049	1,405	1,006	344	99.0		3.5
WHOLESALE	1,766	796	445	299	179	35			1,827	843	445	299	192	38			3.5
RETAIL	6,473	2,700	1,586	1,071	734	298			6,704	2,784	1,604	1,106	814	306			3.6
CONSTRUCTION, MANUFACTURING, MINING	2,617	1,278	547	381	247	103	98.0		2,705	1,345	554	384	255	96	97.0		3.4
TRANSPORTATION, COMMUNICATION, UTILITIES	1,058	455	200	151	138	63	95.0		1,088	471	205	158	137	68	95.0		2.8
FINANCE, INSURANCE, REAL ESTATE	3,125	1,993	535	320	178	52	98.0		3,152	2,046	536	298	161	64	98.5		0.9
AGRICULTURE SERVICES, FORESTRY, FISHERIES	231	126	57	29	15	3	99.6		225	129	57	23	13	2	99.6		2.6

Sources: U.S. Department of Commerce, Bureau of the Census, County Business Patterns, 1984, Hawaii, CBP 84-13 (July 1986).

U.S. Department of Commerce, Bureau of the Census, County Business Patterns, 1985, Hawaii, CBP 85-13 (August 1987).

*The figures for establishments by employment class size will not add up to the total number of establishments due to the exclusion of figures for establishments with 100 or more employees.

Table 5

NUMBER OF ESTABLISHMENTS WITH
LESS THAN 100 EMPLOYEES FROM 1980 to 1985

Year	Total Number of Establishments	Number of Establishments with Less than 100 Employees	Per Cent	Total Number of Employees	Number of Employees within Establishments with Less than 100 Employees	Per Cent	Change (%) from Previous Year--Number of Employees within Establishments w/ Less than 100 Employees
1980 ¹	21,125	20,714	98	312,025	201,364	64.5	
1981 ²	21,264	20,847	98	309,249	202,110	63.9	.4
1982 ³	21,655	21,261	98	309,146	203,622	65.9	.7
1983 ⁴	24,519	24,120	98	308,627	204,453	66.2	.4
1984 ⁵	25,093	24,679	98	318,635	209,737	65.8	2.6
1985 ⁶	25,742	25,318	98	327,336	215,562	65.8	2.8

Sources:

1. Department of Planning and Economic Development, The State of Hawaii Data Book 1982 (Honolulu: 1982), p. 375.
2. Department of Planning and Economic Development, The State of Hawaii Data Book 1983 (Honolulu: 1983), p. 418.
3. Department of Planning and Economic Development, The State of Hawaii Data Book 1984 (Honolulu: 1984), p. 480.
4. Department of Planning and Economic Development, The State of Hawaii Data Book 1985 (Honolulu: 1985), p. 402.
5. Department of Planning and Economic Development, The State of Hawaii Data Book 1986 (Honolulu: 1986), p. 419.
6. Department of Commerce, Bureau of Census, County Business Patterns, 1985, Hawaii, CBP-85-13 (August 1987) pp. 3 and 11.

Policy Considerations in Developing Small Business Economic Development Initiatives

Overview

The Hawaii State Plan provides the overall framework for the long-range accomplishment of the State's economic development policies and objectives. From a review of the relevant statutory provisions, sections 226-6, 226-10, and 226-103, Hawaii Revised Statutes, it is evident that one of the State's primary objectives is to create new employment opportunities through the diversification of its economic base. (See Appendix B.) The State's objectives and policies for economic development form the foundation for public initiatives designed to achieve the stated objectives.

The long-term achievement of these policies and objectives will require a comprehensive strategic action plan in which priorities, activities, and appropriate timetables are delineated. To financially support numerous broad-based government initiatives is neither fiscally prudent nor realistic. In an economy, such as Hawaii's which is dependent upon a few major industries and which may be extremely vulnerable to external economic conditions, public policies for economic development should be fashioned in a manner which will maximize the utility of the State's limited financial resources.

To that end, a significant step was taken by the Legislature during the 1987 Regular Session with the enactment of Act 216, Session Laws of Hawaii 1987, requiring the Department of Business and Economic Development (DBED) to prepare a strategic marketing plan for the promotion, marketing, and development of targeted areas such as "product promotion and development, film production, ocean and marine resources, telecommunications and high technology, international business and development, and any other area designated by [DBED]."²⁶

As noted previously, small businesses in Hawaii have a dominant role in terms of number of employees and number of establishments, in each of the six major industry classifications. However, because of this dominance it is difficult or easy, depending upon one's particular point of view, to ascertain which industry or industries would have the best potential for employment growth generated by small businesses. It should also be noted that "only a fraction of small firms (one in seven according to MIT, Brookings, and University of California reports) accounts for all the job growth by small businesses",²⁷ and approximately "66 per cent" of new small businesses fail within their first five years.²⁸

In general, during 1978-1980 it was estimated that small businesses defined as "all establishments in firms with fewer than 100 employees" employed 36 per cent of the private labor force and generated 39 per cent of the net new jobs.²⁹

Although the number of new jobs created by small business is important, the paramount considerations for purposes of public policy should focus upon which businesses create new jobs and what are the types of jobs created. Generally, large and medium-size firms provide few new jobs while small, relatively young firms tend to be the major contributor for generating new jobs.³⁰ Another writer has suggested that "[t]he key to assisting job growth

is understanding in precise terms the competitive strengths of a community's small business firms and designing programs to build on those strengths."³¹ He classifies small business into two categories--"traded firms" are those that "trade with customers outside an economy" while "sheltered firms" are those that "conduct most of their business within an economy" and are independently owned.³² The competitive strengths of these firms vary according to their position within the market place, e.g., a start-up traded firm's success depends upon "serving an existing market segment with a better (less costly, more valuable) product or to redefining a market segment through product or marketing innovations."³³ In essence, job growth occurs when a business expands or creates its market through the development of new products or product processes, and new or improved services that are in demand and price competitive. Understandably, the quality of jobs that are created hinges upon the particular type of business or industry, e.g., businesses requiring a specific skill will typically pay higher wages than a business requiring unskilled workers. Traded firms, with their capacity to exploit markets outside of their localities apparently tend to create higher paying jobs than sheltered independent firms which are usually confined to servicing a limited geographical area.³⁴

Another public policy consideration is whether long-term economic development initiatives should be targeted to: (1) existing businesses; (2) the creation of new businesses; or (3) attract larger businesses to relocate or establish branch firms within the state. Attracting larger known corporations to relocate or to establish branch firms in a locality is apparently one of the quickest methods to boost economic growth. However, quicker does not necessarily mean better or more effective. Large corporations possess the financial and managerial resources to redistribute their operations to growing industries and regions, while curtailing or closing their operations in declining industries and regions.³⁵ Several studies indicated that tax free bonds and tax abatement programs have minimal influence on large firms' location decisions due in part to the reduced advantage of locating to one state by similar assistance programs in other states, and the program benefits offered were unimportant compared to other locational factors.³⁶ Further, "regional differences in costs, such as labor, land, transportation and financing are small and/or declining, and do not have a dominant effect on locational decisions."³⁷

However, the quality of life for corporate managers is important, and they apparently wish to live in an utopian community, e.g., "avoid personal income taxes, crime", etc., and "to live in physically attractive cities with good schools and housing, and recreational activities."³⁸ For Hawaii, a quick review of its business climate in one report indicated significant strengths in the quality of life, a strong visitor industry, and a substantial military presence, while significant weaknesses were identified as high cost of doing business, unsympathetic government bureaucracy, and an anti-business state tax system.³⁹

Further, one factor affecting the cost of doing business in Hawaii has been stated as "business costs in Hawaii are increased since firms dependent upon interisland or overseas export/import trade must rely on both trucks, and air or ocean going carriers to transport products and raw materials, rather than on the less expensive single mode transportation system that support firms in most areas on the mainland."⁴⁰ According to the Governor's

Committee on Doing Business in Hawaii, this problem stems from Hawaii's unique geographic make up of noncontiguous counties "which is aggravated by the lack of sufficient trade volume to warrant increased competition in interisland shipping, and by provisions of the Jones Act which require the use of American-made vessels for shipping goods between ports in the United States."⁴¹ One possible solution to this problem, as suggested by the Governor's Committee on Doing Business in Hawaii, is to "evaluate the benefits that would result from Hawaii's exemption from provisions of the Jones Act..."⁴² Thus, the Legislature should explore the possibility of having Hawaii exempted from the applicable provisions of the Jones Act through Hawaii's congressional delegation.

As noted previously, small businesses in Hawaii have a significant presence in and impact upon the State's economy. Since small business "is more responsive to local influences, more willing to adapt to local conditions, and less likely to migrate to other locations" than large firms, it seems reasonable to target specific small businesses with the potential to generate new jobs, e.g., existing businesses and start-up businesses for government economic development incentives.⁴³ However, it should be noted that making it easier for entrepreneurs to start a business does not necessarily mean it is going to be easier to succeed. More businesses mean more competition for capital, employees, and customers. The marketplace will eventually determine the successful and unsuccessful enterprises. Nonetheless, economic development incentives would open the door for potential entrepreneurs to compete in the marketplace who might otherwise be shut out.

The development of government economic development incentives for specific businesses or industries should be at least twofold: the preliminary assessment of the targeted business or industry, and the feasibility of various assistance programs that are best suited for the targeted business or industry. At a minimum, the assessment should review the characteristics and needs of the targeted business or industry, and the feasibility analysis should review the cost-effectiveness of the selected assistance programs.⁴⁴ It should also be noted that for direct government assistance, e.g., guaranteed loans or worker-training assistance to be effective in assisting a small business, other peripheral matters such as cost of compliance, monitoring, and auditing of the businesses' use of the assistance, as well as impediments to achieving maximum benefits of the assistance, e.g., providing seed capital to start-up businesses without providing technical managerial assistance or working capital for expansion, should be reviewed in conjunction with the feasibility analysis. This would avoid piecemeal assistance and assist targeted businesses or industries achieve long-term growth.

In summary, public policy considerations for developing economic development initiatives for small businesses centers upon a focused approach which identifies job-generating businesses and evaluating the suitability of various assistance programs for the targeted business or industry. Priorities and objectives should be developed to provide the basic framework from which specific and clearly delineated activities may be designed and implemented towards the overall achievement of the stated economic development policies and guidelines of the Hawaii State Plan.

Chapter 3

BUSINESS INCENTIVES AND SERVICES

The area of government initiated business development incentives is a broad one and there are many mechanisms or development tools which a state or local government can use to accomplish particular economic development objectives.

The following sections discuss business incentives identified by the Legislature in the two resolutions calling for this study such as business incubators, small business development centers, one-stop permitting and licensing centers, and other business incentives relating to direct and indirect financial assistance, as well as business development services and assistance.

I. Business Incubators

Overview

The business incubator is just one economic development tool designed to assist young small businesses or start-up firms in their developmental stages. As noted previously, although small businesses generally are the primary generators of new jobs, studies have found that many new small businesses fail within their first five to seven years.¹ In fact, "about 33 per cent cease to exist within their first year, over 50 per cent fail in the first two years of their existence, and roughly 66 per cent end within five years."² The most frequently cited reasons for these failures are the lack of capital and poor management practices.³ The primary objective of the small business incubator is to reduce the rate of small business failures by easing some of the initial financial and management hurdles inherent in the critical stages of business start-up. As stated by one commentator, "[l]ike a mother hen, the incubator helps the new firm to hatch, grow and leave, typically in less than three years. The incubator is not a permanent home for the new enterprise which will eventually secure its own space elsewhere at market rates and make room for other new start-up firms".⁴

The term "business incubators" describes a concept for providing the new small business an environment in which to grow into a viable and successful enterprise through management assistance, shared office services, and affordable rents. Other terms associated with this concept are innovation centers, enterprise centers, and business and technology centers. Many of the incubator facilities, as these terms suggest, are targeted to assisting small firms oriented to high technology or innovation. However, incubators may be targeted to various types of businesses or industries depending upon the particular needs of a given locality.

According to Allen, there are four key dimensions of business incubators:⁵

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- (1) The environment of incubator organizations which include formal networks (public and private sector institutions that share an interest in enterprise development but seldom work together in a systematic manner) and informal networks (the entrepreneur's family, friends, and previous business associates) that may assist entrepreneurs with strategic business development issues, such as product development, marketing, early stage capitalization, and potential key personnel;
- (2) Multi-tenant commercial and industrial buildings that are available for restoration or rehabilitation and adapted for small business occupancy at more affordable rental rates than would otherwise be available in the regular marketplace;
- (3) Management consulting services and business assistance are an integral part of the business incubator, at least where the entrepreneur lacks the range of skills and knowledge to operate a business; and
- (4) Shared office services and facilities would lessen the initial capital expenditures of the entrepreneur for support services and facilities.

A relatively recent national survey of business incubators found that most of the incubators were located in a large multi-tenant building with all or nearly all of the following elements:⁶

- (1) Below market rental rates;
- (2) On-site business assistance at low or no cost;
- (3) Assistance in obtaining financing;
- (4) Shared support services at low or no cost;
- (5) Flexible leases;
- (6) Flexible space arrangements;
- (7) A "graduation policy" requiring tenant firms to leave after a specified period, e.g., three to five years; and
- (8) Employee training and placement services.

Basically there are three types of organizational affiliations, (1) private, (2) public/nonprofit, and (3) universities that are appropriate for incubator facilities. Each of these three types of entities has different though specific purposes:⁷

- (1) Privately sponsored incubators are primarily interested in "high economic reward for investment in tenant firms", and "added value through the development of commercial and industrial real estate";
- (2) Public or nonprofit-sponsored incubators are primarily interested in "job creation", and "economic diversification, tax base expansion, building rehabilitation and reuse, creation of a positive development image, and securing of income to sustain the organization"; and
- (3) University-sponsored incubators are primarily interested in providing training opportunities for students and transferring faculty research findings to the development of new products and technologies, e.g., biomedical fields, computers, and robotics for internal or external commercial purposes.

Rapid growth in the number of incubators sprouting across the United States from approximately 60 facilities in the spring of 1985⁸ to nearly 180 by November 1986⁹, suggest a trend towards an increased commitment of the public and private sectors to local economic development in general, and assisting young small firms in particular. There are at least 26 states with incubator statutes, proposed legislation, or a program: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin.¹⁰ The most intriguing aspect of the incubator concept is that an incubator can be tailored to fit the particular needs and resources of a community or locality. Although not all incubator facilities will succeed, careful planning and efficient management will reduce the probability of failure.¹¹ There are many useful resource publications available for potential incubator sponsors or developers, covering such topics as determining the feasibility of an incubator, managing a small business incubator, etc.¹²

The following discussion will highlight selected incubator programs implemented in other states as well as Hawaii's planned Manoa Innovation Center. Appendix C provides a summary of nine state incubator policies indicating a variety of methods for implementing an incubator program.

Manoa Innovation Center. As proposed, the Manoa Innovation Center (Center) will provide an incubation facility for young, growing, small technology-based firms, and house the research and development activities of the Pacific International Center for High Technology Research (PICHTR). A summary of the findings and conclusions of Pryde, Roberts and Company's feasibility analysis for the Manoa Innovation Center is provided below.¹³

- (1) The recommended site is a three-acre parcel of land on Woodlawn Drive in Manoa Valley, Honolulu adjacent to the Manoa Marketplace Shopping Center. The land would be owned by the University of Hawaii and leased (at a nominal fee of \$1.00 per year) to the High Technology Development Corporation (HTDC).¹⁴ The physical structure would be owned by HTDC and leased to tenant firms.

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- (2) The Center would be housed in a newly constructed 42,500 square foot facility. The estimated total project cost is \$6,960,000, of which \$6,020,000 is earmarked for construction; \$450,000 for land, plans, and design; \$400,000 for working capital; and \$90,000 for equipment.¹⁵
- (3) The market analysis indicated that, from a statistical basis, there exists reasonable market demand. It is estimated that 118 firms could be attracted to the Center over a three-year period. Initial incubator rents are estimated to average between \$1.00 and \$1.20 per square foot per month which would include space, some services, advice, and other amenities. Also, "anchor tenants" (paying rental rates above initial incubator rates), such as possibly the Research Corporation of the University of Hawaii, will help underwrite the project start-up cost.
- (4) Management of the Center on a day-to-day basis should be by a private management firm. Also, if a seed capital fund is formed it should be owned and managed by a private for-profit entity. The incubator manager should monitor seed fund capital commitments but should not be involved in investment decisions.
- (5) Entry and exit policies should include careful screening of potential tenant firms and graduation of tenant firms within three to five years. The types of tenants over the initial three-year period would include software companies, communications (such as cable and microwave) firms, University of Hawaii faculty research/business groups, high-technology support industries, technology service firms (e.g., consulting services), and graduating start-up firms.
- (6) Types of tenant space would include office, research and development or production space, manufacturing or light industrial space, laboratory space, and storage or temporary distribution space.
- (7) Business related services such as secretarial, word processing, data processing, accounting, bookkeeping, etc., some of which should be included in the monthly rental fees while others should be charged on a unit cost basis. Business advisory or professional services should be provided free or for a reasonable fee, depending upon negotiations with individual service providers.
- (8) Financial assistance to be provided to tenant firms should include preparation of conventional loan packages, establishing a seed capital fund with a desirable initial capitalization of \$1 million which is to be used as "risk capital", and assistance in arranging venture capital. (Seed capital and venture capital are discussed in Chapter 3, part B.)

In addition to the Manoa Innovation Center, the HTDC and Hawaiian Telephone Company, Inc., have recently embarked on a proposal to utilize approximately 3,600 square feet at Hawaiian Telephone's Kaimuki switching

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center for an incubator or preincubator facility, which would be targeted for small start-up businesses in the areas of electronics, alternate energy, software development, and telecommunications.¹⁶

St. Paul's Small Business Incubator.¹⁷ The purpose of the incubator facility is to create jobs in the local community by nurturing the growth of industries that are likely to remain in St. Paul, Minnesota. The incubator grew out of St. Paul's Homegrown Economy Project which focuses on helping local businesses to grow and expand, rather than attempting to attract businesses from other areas.

In 1983, the city of St. Paul allocated \$600,000 (most of which were federal funds) for a small business incubator facility. A suitable warehouse building was found in the city's older industrial and warehousing district. An agreement was reached between the property owner and the city in which the city agreed to provide \$550,000 first mortgage financing to the owner at a fixed interest rate of nine per cent. In return, the city received a guarantee to lease one-third of the facility at no cost for at least three years with a possibility of remaining a total of twelve years.

The city's portion of the facility contains approximately 20,000 square feet.¹⁸ The city, through the St. Paul 503 Development Company, subleases its portion of the incubator space to tenant firms for a term of two years with an option for an additional year. The rental rates range from \$1.40 per square foot for warehouse/manufacturing space to \$2.25 per square foot for manufacturing space which include small air-conditioned offices. Building management and maintenance services are contracted out to the property owner, at a base cost of 70 cents per square foot for these services which is included in the monthly rent. Also, an interesting arrangement between the city and the tenant firms is a covenant in their lease agreement requiring the tenant to use its best efforts to utilize referrals for employees from the city's Job Training Partnership Act program.

Tenant selection, in general, is based upon the following criteria:

- (1) A start-up or fledgling business with sound management, a good business plan, and job-generating potential;
- (2) The business is locally owned;
- (3) The business has potential to create a job base of good quality jobs;
- (4) The diversity and local interdependence that the business offers the local economy; and
- (5) The ability of the business to attract capital from outside its locality, i.e., exporting potential.

As of January 1985, the St. Paul 503 Development Corporation had developed eight rental spaces in the incubator. The types of businesses ranged from a food vending service to a manufacturer of energy efficient carburetors for large boiler systems. It is anticipated that the city's portion

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of the incubator will house five to eight businesses during each three-year incubation cycle in which approximately 40 jobs will be created or maintained.

Since the city's portion of the incubator facility is relatively small and restricted to house approximately five to eight businesses at one time, shared services and facilities (e.g., conference room and building maintenance), the cost of which are included in the rent, are minimal. Further, the St. Paul 503 Development Company suggests that prospective incubator developers or sponsors do not try to provide too many services as experience has shown that many fledgling small businesses are able to obtain clerical and related services at lower prices than they could provide.

Pennsylvania's Small Business Incubator Program.¹⁹ The Pennsylvania Small Business Incubator Act, as amended, authorizes the Ben Franklin Partnership Board (Board) to provide grants and loans to establish small business incubator facilities.²⁰ The Ben Franklin Partnership is managed by a 15-member board comprised of representatives from the private sector, small business, education, labor, and the state legislature. The Board approves all grants and loans.²¹

Under the Small Business Incubator Program, grants and loans are available for up to 50 per cent of the total eligible project cost or \$650,000, whichever is less. The funds may be used for the acquisition and leasing of land and existing buildings, rehabilitation of buildings, and the purchase of equipment and furnishings necessary for the creation and operation of the incubator. Grants of up to \$240,000 may be made for establishing business incubators in designated economically distressed communities. Generally, the terms of the loan include a maximum loan period of ten years, interest rates which are determined by the secretary of commerce and may be varied, and repayment of principal and interest which may be deferred for two years. Security is required but may be subordinated to other public or private capital. Targeted tenants for the incubator program are recently established small businesses engaged in manufacturing, product development, research and development, and professional services to other businesses, e.g., nonprofit research and development enterprises and eligible anchor tenants (a nonretailer with an incubator lease of more than two years). Nonprofit enterprises such as Small Business Development Centers, whose primary mission is to provide business development services may also be located in an incubator if they provide a substantial portion of their services to incubator tenants. Similarly, law and accounting firms may be tenants in an incubator if they provide pro bono services to incubator tenants. Small businesses engaged in retail, wholesale, and personnel service and nonprofit enterprises (other than research and development enterprises) are ineligible for tenancy in an incubator.

In general, a local sponsor (an organization including municipalities, local development authorities, or any private nonprofit or for-profit organization approved by the Board) submits an application to obtain a grant, loan, or loan guarantee to establish an incubator facility. The local sponsor, among other things, must demonstrate either through a formal feasibility study or market survey that a need exists for the incubator facility. The local sponsor must also have a basic package of business development services (for which a user fee may be charged) including security, janitorial/

maintenance, furniture, conference room, mail, copier, clerical/receptionist, access to computer, financial assistance (e.g., insurance counseling and assistance in preparing applications for commercial and government financing) and management services such as assistance in preparing business plans and relocation plans. Upon approval of the application by the Board, a written agreement is entered between the Board and the local sponsor to establish, operate, and administer a small business incubator facility.

Further, the local sponsor is required to establish a local advisory committee to assist the local sponsor in performing its enumerated functions, such as reviewing tenant selections and business services provided to incubator tenants. The composition of the advisory committee may include no more than six representatives from various fields, such as accounting, legal, financial, academic, and small business who are not affiliated financially with the local sponsor or any incubator tenant.

As with most other small business incubator programs, Pennsylvania's program is designed to assist the establishment of facilities where new start-up businesses can begin and grow. The incubator facility is a temporary location for tenant firms. When a business is able to move out of the incubator and make the space available for new start-ups, additional financial assistance is available from the Pennsylvania Capital Loan Fund for land, building construction or renovation, equipment, and working capital.

As of February 1987, there were 31 incubator centers operating in Pennsylvania of which 27 received Ben Franklin Partnership assistance. Within those 27 incubators there were 220 businesses contributing to a total of 1,608 jobs. Further, 47 businesses have graduated from these incubator facilities (moved out into regular commercial space) and are responsible for generating 477 jobs. For fiscal year 1987-1988, the Pennsylvania General Assembly allocated \$4 million for the Small Business Incubator Program.

Ohio's Thomas Edison Incubator Program.²² The Edison Incubator Program is one of three major components of the Thomas Alva Edison Partnership Program.²³ Edison incubators are different from most incubators in that colleges are active partners and tenant firms have technology based products or manufacturing methods. In essence, these facilities are considered "industrial incubators", i.e., they house manufacturing and service companies. A majority of incubator tenants are start-up businesses with less than five employees.

Since 1985, a total of \$2.2 million has been awarded to six technology-based incubators. Grants are awarded on a competitive basis and recipients are required to match the incubator program grants on an equal basis from sources other than state government. Program grant funds are used to support on-going operations and associated costs, rather than for the purchase or construction of an incubator facility. This is intended to secure private sector funds for the establishment of incubators. Grant amounts have ranged from \$200,000 to \$470,000. The six technology-based incubators are managed by local nonprofit organizations which provide an array of business services for the particular locality in which the incubator is situated.²⁴ Over the past three years, five of these incubators housed a total of 71 tenant firms, of which ten have graduated and five have failed. The Edison

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Program estimates that approximately 600 individuals are employed by tenant and graduate firms, representing a growth of nearly 400 jobs.

In addition to the aforementioned funding requirements, each proposed incubator must do the following:

- (1) Demonstrate how its activities will help in the creation of jobs in the state through the start-up, retention, expansion, and attraction of technology-based businesses;
- (2) Provide a strategic plan: (A) which addresses the concerns of the region or locality in which the incubator proposes to locate; (B) to demonstrate a strong private sector participation, and that the incubator's focus is on technology-based businesses; (C) which demonstrates involvement of one or more educational institutions; and (D) which demonstrates a commitment of matching funds from nonstate sources in an amount at least equal to the state funds provided;
- (3) Provide various services designed to improve the survival rate of incubator tenants which include space (e.g., manufacturing and assembly areas, laboratories, and sales and marketing offices), support services, and interaction with other similar businesses outside of the incubator which have experience and access to seed capital networks; and
- (4) Provide a three-year operational plan to include policies for tenant selection, evaluation, graduation, a detailed description of the types of services that will be provided to tenant firms on a fee basis or free of charge, and a timetable indicating expected program accomplishments.

From the preceding discussion, it is evident that state and local governments may structure incubator programs in a manner most appropriate to accomplishing their stated economic development objectives. This flexibility should allow for greater latitude in the allocation of limited government financial resources for economic development incentives. Further, the flexibility to adapt the incubator concept to various economic development strategies, such as revitalization of economically distressed localities, or spurring high technology innovation, is a definite incentive for state and local governments to establish and implement incubator programs.

For example, in 1985 the China Trade Center (Center) which is located in Boston's Chinatown was developed in response to a pressing need for more storefront space due to increased population growth within that area. As originally planned, the Center was designed to provide retail and office space to approximately 50 small businesses at rental rates one-half of market rates.²⁵ The Center presently houses a total of 17 businesses which includes restaurants, retail stores, convenience stores, and a travel agency that are responsible for 300 jobs.²⁶ The Bay Group, which is a real estate development firm, presently manages the Center at an average operating cost of \$9.50 per square foot and tenants' rental rates average \$15.00 per square foot with a maximum lease period of five years.²⁷ According to the Bay

Group, the Center was constructed at a cost of \$12 million which was financed by the federal, state and city governments, and private sector investment.

The Science Park (Park) incubator, New Haven, Connecticut, located within a state-designated enterprise zone, opened in 1983 as a joint venture between Yale University, the state, the city, and the Olin Corporation.²⁸ The Park, which is owned and managed by the nonprofit Science Park Development Association offers tenants (light industrial, office, and high technology businesses) clerical, administrative support services, accounting, and legal services on a fee for service basis, as well as business management assistance services from Yale University Business School. Since the Park is located within an enterprise zone the \$10 million project cost included the rehabilitation of a 60,000 square foot abandoned factory building and the construction of a new 60,000 square foot building. There are, however, advantages of being located within an enterprise zone such as property and state business tax incentives. Currently, Science Park has 100 tenant firms, of which 60 per cent are high-technology firms and 40 per cent are service companies, which employ 1,000 individuals of which 250 are minorities and 100 are residents of the surrounding neighborhood.²⁹

Another notable adaptation of the incubator concept is the franchise arrangement from Control Data Corporation, known as the Business and Technology Centers (BTCs).³⁰ The franchise is sold to local governments or private developers. Basic services provided by Control Data include a community assessment which involves site visits by Control Data staff to review local financial and business management assistance, and a real estate analysis of two BTC appropriate sites. The franchisee also receives a management program for property management, service design, marketing strategies for space and service, and staff training. On-site consultation services for building renovation or construction, and training for the center manager and staff are included in the basic franchise fee of \$50,000. Additional fees include \$25,000 to \$50,000 for the community assessment and an annual Control Data support fee of \$15,000.

Once the BTC is established, services provided to tenants include a receptionist, answering service, copying, secretarial services, conference rooms, and consulting services on a fee basis, as well as other amenities included in the basic rent, e.g., security and custodial services. Most of the BTCs rent office and manufacturing space on a unit basis rather than a square foot basis. As of 1984, there were 15 BTCs operating in the United States. Government or public franchises include Indiana, Illinois, Colorado, Minnesota, and South Carolina.

At least one state, Montana, has recently adapted the incubator concept for agricultural businesses.³¹ The Agriculture Business Incubator Program was established as part of an overall strategy to strengthen and diversify Montana's agricultural industry. Under the Program, incubators must be self-financing business development entities providing services such as training, management consultation, accounting, and office space to eligible agricultural businesses, e.g., marketing cooperatives and associations. An agricultural business incubator account was established in the state special revenue fund from which the Agriculture Development Council may invest not more than \$100,000 in any one incubator.³² Investments may be made only in incubators located in different geographic areas and in localities with a

population of 15,000 or less. The municipality or community in which the incubator is located must provide funding or contributions (land, building, or professional services) of value at least three times the amount of state investment.

In summary, the incubator concept is a valuable tool for government economic development initiatives. Its structural flexibility as well as the shared services, facilities, and ideas provide an environment conducive to nurturing the growth of targeted small businesses, especially during their initial stages of development. An incubator program should address and fit the particular economic development needs of a community or locality, such as business development or agricultural development, and require private sector commitment in the funding and operation of an incubator facility.

II. Capital Formation³³

A. Venture Capital

Small businesses, particularly new business start-ups, find it difficult to secure venture capital for financing in their early stages. The reasons for this are many and varied. Some of the reasons are that:

- (1) The "high cost of entry and inherent failure rate of small businesses makes investment in this sector unattractive to traditionally risk averse capital markets";³⁴
- (2) Relatively few venture capitalists are willing to invest in early stage financing opportunities;³⁵ and
- (3) A majority of venture capital investments are continuing to be made in familiar high growth, high technology areas.³⁶

The major sources of financing for average new small businesses are "owner's savings, funds from friends and relatives, and loans from commercial banks".³⁷

Although there is no uniform definition of "venture capital" or "risk capital" it may be defined "as the provision of early-stage financing for growth and developing companies, and typically involves taking an ownership interest in a business in the form of a direct purchase of stock (preferred or common), or through warrants, put and call options, and/or convertible subordinated debenture securities."³⁸ There are at least four stages of business growth that are appropriate for venture capital financing:³⁹

- (1) Seed capital phase--Typically perceived to be more risky. The entrepreneur has developed a new process, service or product. Typically no formal organizational structure is in place. Very few venture capitalists participate at this research and development (R&D) level;
- (2) Start-up phase--The company is planning to organize or has been organized for a short time and is beginning to produce and sell

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its products or services. It may or may not be profitable and needs additional capital to continue its growth;

- (3) Expansion phase--The company is still small but has a favorable operating history. Financing is needed to increase plant capacity and/or working capital due to growing sales; and
- (4) Buy out phase--Financing is needed to make an acquisition of a company or to liquidate the venture capitalist's position.

Venture capitalists, generally, are not interested in the seed capital phase. Although venture capitalists will finance start-up situations, they "are most interested in small businesses which have been in business two to four years or more, whose revenues fall somewhere between \$2 million and \$10 million and whose capitalization (paid in capital and retained earnings) is somewhere near \$1 million."⁴⁰

In Hawaii, there are at least two small business investment companies (SBICs)--Pacific Venture Capital, Ltd., and Bancorp Hawaii Small Business Investment Company, Inc. (Bancorp SBIC). Both are independent private entities providing long-term loans and equity financing (taking a minority interest) to eligible small businesses, and are licensed and regulated by the United States Small Business Administration, under the Small Business Investment Act.⁴¹ According to materials from both companies, investments may be made in the form of secured long-term loans (for Pacific Venture Capital, Ltd., secured or unsecured long-term loans) and equity capital for expansion financing, leveraged buy-outs (e.g., to acquire all or part of an existing company), and consolidation of debt obligations or turnaround financing for businesses experiencing financial difficulties due to inadequate capitalization. Start-up financing is available but is subject to very strict underwriting standards.⁴² The amount of investment in any one transaction may be \$50,000 to \$400,000 from Bancorp SBIC, or \$50,000 to \$200,000 from Pacific Venture Capital. Both may also lead or participate in raising capital for larger amounts.

In 1981 a state venture capital information center was to be established within the Department of Business and Economic Development (DBED) (formerly Department of Planning and Economic Development) to "provide for the development and exploitation of inventions and new products...and to facilitate the bringing together of investors and developers of new products seeking financing."⁴³ Currently, the Small Business Information Service (SBIS) within the DBED provides a referral service for persons seeking venture capital financing, to approximately ten venture capital entities.⁴⁴ The applicant's business package is forwarded by the SBIS to venture capitalists who will then contact the applicant if they are interested in the project; however, apparently there is no assurance for confidentiality of the information submitted by the applicant to the venture capitalists.⁴⁵ During the past year no business packages have been submitted to the SBIS, although there were approximately five inquiries.⁴⁶

As noted previously, new small businesses lack access to venture capital, especially seed capital, due to the market imperfection. To assist those entrepreneurs in gaining access to venture capital at least 28 states

have initiated 45 venture capital programs using one or more of the following five approaches (see Appendix D for a brief description of the 45 venture capital programs):⁴⁷

- (1) Creation of a public sector fund;
- (2) Creation of a state initiated private fund;
- (3) Enactment of tax incentives to induce private sector investments in a venture capital fund;
- (4) Utilization of a quasi-public entity to operate a program; and
- (5) Utilization of public pension fund investments.

1. Challenge Grant Seed Capital Program⁴⁸

In Pennsylvania, seed capital funds of up to \$250,000 are available for investment in an eligible small business, which include advanced technology or computer-related ventures, international export-related services, and international export mercantile ventures. The Ben Franklin Partnership Board (Board) administers the Challenge Grant Seed Capital Fund Program. This program is unique in that it provides challenge grant funds to help establish seed capital funds from which equity financing investments may be made to new businesses, including firms in small business incubators, for early-stage financing. Advanced technology centers or other organizations approved by the Board may apply for the challenge grants. Applicants must demonstrate a 3:1 private investment ratio to the challenge grant funds and a total of at least \$3 million committed to the proposed seed capital fund, or a 1:1 private investment ratio to the challenge grant funds, a minimum total of \$1.5 million committed to the proposed seed fund, and a 3:1 ratio of private investment commitments to challenge grant funds for any one business project.⁴⁹ Small businesses located in the state except businesses of a general mercantile or services-related nature are eligible for investment by the seed capital funds. As of April 1987, the program has helped to establish five privately managed seed capital funds. The state's \$4.5 million appropriation has been matched by \$27 million in private funds.

2. Michigan's Seed Capital Program⁵⁰

Michigan has also used the creation of a public sector fund approach to provide venture capital for new businesses in their earliest stages of development. The seed capital program, which is administered by the state's Michigan Strategic Fund (MSF), is designed to create a seed capital industry to make equity investments in new businesses which have the potential for rapid growth by catalyzing the formation of four private seed capital funds.

As of January 1987, the MSF Board had committed to loan a total of \$8 million, \$2 million to each of the four private seed capital funds.⁵¹ Under the program, each seed capital fund is required to raise a minimum of \$1 million in private equity commitments (limited partnership interests). The MSF is to provide \$2 million in nonrecourse loans with an interest cap of nine

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per cent for a maximum term of ten years. Seed capital fund investments are subject to the following requirements:

- (1) Types of permissible use of investment funds include preparing a business plan, initial market analysis, assembling a management team, and developing a working prototype;
- (2) The portfolio company (company in which seed capital funds are invested) must be a new business with no prior sales, or an existing business with some sales but which is planning to change its business or product line significantly;
- (3) There have been no prior investments in the portfolio company by professional or institutional investors, unless another seed capital fund has previously invested in the portfolio company into which the seed capital fund seeks to co-invest;
- (4) The seed capital fund is the initial lead investor in the portfolio company in which traditional venture capital entities in the state would not normally invest, in view of the company's stage of development;
- (5) The portfolio company is located or intends to locate in the state, and will have the potential to become a rapidly growing company with a long-term presence in the state; and
- (6) The seed capital fund shall not invest in any one portfolio company more than 20 per cent of its total original capital (MSF funds and private funds).

Distribution of earnings by the seed capital fund to its limited partnerships is prohibited unless a payment of accrued interest, or principal, or both, is made to the MSF on a pro rata basis, e.g., if the limited partnership interests equals \$1 million and the MSF loan amount is \$2 million, the pro rata amount paid to the MSF is twice the amount of distributions to the limited partnerships. After the MSF has received a total of \$2 million in interest and principal, and the limited and general partners have recovered through distributions amounts equal to their committed capital contributions, the general partners are entitled to receive up to 20 per cent of the combined amounts of distributions to the limited and general partners and payments to the MSF.

3. Maryland Equity Participation Investment Program⁵²

The Equity Participation Investment Program (EPIP) which is administered by the Maryland Small Business Development Financing Authority (Authority), is designed to encourage and assist the creation and development of franchises in the state by socially or economically disadvantaged persons. Under the program, the Authority is authorized to provide up to \$100,000 in equity financing to any one franchise and acquire no more than a 45 per cent interest in the franchise. Funding for the program is through the EPIP which is a nonlapsing, revolving fund. The Authority receives its return on investments in the form of royalties from the franchises or interest payments

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if a debt security is used. All investment earnings are deposited into the EPIP Fund.

The Authority may use the moneys in the EPIP Fund for the following purposes:

- (1) The purchase of qualified securities (e.g., any note, bond, debenture, stock, investment contract, etc.) issued by the franchise;
- (2) To provide guarantees of investment to expand the capital resources of qualified franchises;
- (3) For the purchase of advisory services and technical assistance necessary to carry out the purposes of the program;
- (4) For the purchase of any securities that may be a lawful investment for a fiduciary of the state; and
- (5) To provide any financial assistance provided under the program including investment or guaranty of investment in an eligible business enterprise.

Additional requirements under the EPIP include: (1) the Authority's determination that there is a reasonable probability that it will recover its initial investment and an adequate return on its investment within five years; (2) the Authority's recovery on its investment will be the current value of the percentage of the equity investment in the businesses (e.g., if the businesses' current value equals \$500,000 and the Authority's equity investment in the business is 45 per cent, then the Authority's recovery is 45 per cent of \$500,000), or the amount of the initial investment, whichever is greater; and (3) no more than \$1 million may be invested for any 12-month period.

4. Connecticut Product Development Corporation (CPDC)⁵³

The CPDC is a quasi-public organization chartered by the state legislature in 1972. It is a not-for-profit corporation, and its directors are appointed by the governor. The CPDC was created to assist established innovative, entrepreneurial businesses with the cost of new product development.

In providing risk capital for the development of new products or processes, the CPDC is unique in that it is neither a loan nor a grant type of program. The CPDC may reimburse up to 60 per cent of the client company's allowable documented expenditures on a regular basis, which typically include the cost of labor, materials and supplies, required testing and approval procedures, patent applications, and special tools except capital equipment. The CPDC does not take an equity or management position in a client company. The CPDC's return of its investment is derived from a royalty (generally 5 per cent) based on the sale of the CPDC assisted product. Royalty payments to the CPDC continue until a multiple of its investment has been returned depending upon the length of the payback

period (e.g., if the payback period is five years, the investment multiple then equals two and one-half times the amount of the investment which, once reached, results in a 1 per cent royalty reduction for an additional five years).

The CPDC carefully scrutinizes an applicant company's business plan. Key evaluation criteria for project approval and the amount to be invested include:

- (1) The feasibility of successful product development;
- (2) The experience of key personnel is evaluated to predict the company's ability to complete product development, and successfully produce and sell the product;
- (3) The market demand or availability of the new product at its projected selling price, with a predicted product life long enough to ensure a suitable return on investment;
- (4) The projected number of new jobs must correspond to the amount of money sought from the CPDC. New jobs created are required to remain in the state; and
- (5) A demonstrated favorable financial history and cash flow as well as potential sources of additional capital.

As of February 1985, a total of \$13.1 million had been committed to the CPDC and \$8.9 million had been disbursed to 63 client businesses which created 803 new jobs at a cost of approximately \$10,000 per job.⁵⁴

Further, once the new product is developed and ready for commercialization, businesses requiring working capital (e.g., funds for operating expenses, purchasing inventory, and receivables financing) may apply for a loan ranging from \$40,000 to \$200,000 from the Connecticut Innovation Development Loan Fund (CID). The CID was established within the CPDC to provide working capital for businesses with new products and processes ready for manufacture, promotion, and sale. The CID requires a 1:1 match of private or other public agency funds to CID funds. The maximum term of the loan is six years with negotiated interest rates generally below the then prevailing prime rate.

5. Other Programs

At least two states have either enacted or have considered legislation creating a local or county seed capital pool to attract private funds through tax incentives to raise venture capital for business development. Kansas has recently enacted enabling legislation (Senate Bill 69-1987) for the certification of local seed capital pools and providing income tax credits for investors in these pools.⁵⁵ The state secretary of commerce is authorized to adopt rules for the certification of local seed capital pools. A local seed capital pool is defined (under Senate Bill 69-1987) as "money invested in a fund established to provide funding for use by small businesses for any one or more of the following purposes: (A) development of a prototype product or process; (B)

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a marketing study to determine the feasibility of a new product or process; or (C) a business plan for the development and production of a new product or process." An applicant (a venture capital company) seeking to be certified as a local seed capital pool must indicate, among other things, that its purpose is to encourage and assist in the creation of businesses in Kansas and to provide maximum opportunities for the employment of its citizens by making seed capital available to Kansas businesses. Further, the applicant must have an initial capitalization of at least \$200,000.

A state income tax credit in an amount equal to 25 per cent of a taxpayer's cash investment is allowed for the taxable year in which the investment was made in a local seed capital pool, and for subsequent taxable years until the total amount of the credit is used.⁵⁶ The allowable deduction of the tax credit for any one taxable year, however, is limited to 25 per cent of the total amount of the tax credit (e.g., if the cash investment is \$100,000, then the total amount of the tax credit equals \$25,000 of which 25 per cent is deductible for any one taxable year). However, before any tax credit is allowed for cash investments in a local seed capital pool the following conditions must be satisfied: (1) there is \$200,000 or more of private cash investments in the local seed capital pool; (2) funds necessary to administer and operate the pool are from sources other than the private and public cash investments; and (3) funds invested by the pool be invested only in Kansas businesses.⁵⁷

Each local seed capital pool fund is subject to an annual review by the department of commerce. The secretary of commerce is to report annually to the governor and the legislature the accomplishments of the certified seed capital pool funds, e.g., the total tax credits generated, total investments in Kansas businesses made by the pool funds, an estimate of jobs created or preserved under the program, and an estimate of the multiplier effect of the program on the state's economy.

In the state of Washington, the state legislature considered but did not enact legislation that would enable a county to create a seed capital fund from which it could provide loans or equity participation to finance new enterprises or to assist in the development of new products.⁵⁸ The county seed capital fund would purchase qualified securities of eligible enterprises (small businesses with less than 50 employees primarily located and operated in the county, and engaged or proposing to engage in research and development, commercial product development, or in the production of goods and services having a high potential for export). No more than 45 per cent of the seed capital fund's stated capital could be invested in any one eligible enterprise. Real estate investments were not permitted.

The funding mechanism for the Washington seed capital fund is unique. The seed capital fund would be financed through donations by consumers of public utilities (e.g., water distribution and sewerage collection services). Donations could be up to \$5 per month. A utility may charge a fee of up to three per cent of the total funds collected to defray the cost in collection and processing the donations. The county seed capital fund would be governed by a seven-member board of directors, appointed by the county legislative authority. The county legislative authority would provide, by ordinance, procedures for the implementation and administration of the seed capital fund.

Another notable financial assistance program is the Loan Loss Reserve Program (California) "designed to encourage banks to make the moderately risky loans that they make under the SBA loan guarantee program, but at a fraction of the public cost."⁵⁹ The program is also designed to complement the SBA loan guarantee program by authorizing banks to make loans to small- and medium-size businesses in which the borrower and the lender negotiate a loss reserve rate (minimum of 2 per cent and maximum of 5 per cent), and the lender and borrower each contribute one-third to the loss reserve. The state government would also contribute another one-third to the loss reserve. This results in a loss reserve at a 6 per cent minimum and 15 per cent maximum for each loan.

A participating bank develops its own loss reserve fund and may only tap into the fund if it has experienced losses in the loan portfolio. For example, "if over a few years a bank were to develop a \$100 million portfolio of loans and on an average had used a 3 per cent fee from each of the three parties [borrower, lender, and state government], the reserve would be \$9 million. The bank could sustain a 9 per cent loss rate and still not have losses exceeding the amount in the reserve."⁶⁰

The described benefits of this program to all three parties include the following:⁶¹

- (1) The bank receives "a modest loss reserve subsidy from the government", it may charge sufficient interest and points to cover its contribution for the period of the loan as well as a one-time fee to cover its expenses, and flexibility in the terms and types of loans to be made, e.g., revolving lines of credit and loan refinancing;
- (2) The borrower gains access to capital that otherwise might not be available without the program. Although interest rates are slightly higher than the SBA guarantee loans (e.g., additional one per cent annual interest), the "elimination of additional paperwork and delays can more than offset the additional cost."
- (3) The government benefits indirectly through the "additional flow of investment capital, which tends to encourage job growth, productive expansion, and efficiency at a cost that is approximately one-third the cost of similarly targeted SBA programs." The Program also limits government administrative responsibility by allowing the bank to register the loan within ten days after the loan is made. The bank is required to submit a one-page report indicating "the name of the borrower, amount of the loan, reserve fees, and expected employment impact."

In an attempt to provide banks an incentive to increase their lending to small businesses, the city of Louisville, Kentucky, has embarked on a new concept in which the "city will use \$5 million of its municipal investment portfolio to buy new small business loans to be made by local banks and guaranteed by the Small Business Administration".⁶² To participate in the program (which offers lower fixed interest rates than conventional commercial lenders) "the business must be located in Louisville and it must create or

retain at least one job for every \$20,000 of the loan amount. The maximum amount of each loan will be \$500,000".⁶³

In an effort to improve Maine's small business climate, "28 Maine banks have agreed to commit \$38 million for small business expansion financing."⁶⁴ The Maine Bank Participation Program within the State Development Office (SDO) provides long-term loans, e.g., fifteen- to twenty-year loans on real estate and seven- and ten-year loans on machinery and equipment, to businesses desiring to expand their operations.⁶⁵ The SDO is responsible for "marketing the program, pre-screening the applicants, and, when necessary, packaging the low interest public loans to supplement the private funds."⁶⁶

The State of North Dakota has implemented several economic development incentives designed to provide investment capital for the establishment, expansion, and rehabilitation of businesses in the state. A public corporation known as the "Myron G. Nelson Fund, Inc.", was recently established to organize and manage an investment fund capitalized through the sale of the corporation's shares to the State Bank of North Dakota and other public and private investors.⁶⁷ Initial capitalization of the Fund will be through the purchase of the Fund's shares by the Bank of North Dakota. The Bank of North Dakota may thereafter annually invest in the Fund as determined by the industrial commission with due consideration to the level of private investments in the Fund (e.g., to attempt to match the private investment on a 1:1 basis). The board of directors is elected by the shareholders pursuant to the Fund's bylaws, however, representation on the board must include the economic development commission, investors, and the business sectors of the state's economy. The management of the Fund's investment funds is required to be contracted out by the board of directors to a professional venture capital investor. The investment policy of the Fund includes a preference for in-state businesses, and an investment in any one entity may not exceed a maximum of 40 per cent of the entity's capital.

Further, income tax credits are allowed for investment in the Fund by banks, savings and loan associations, and insurance companies, as well as for individual taxpayers. For banks, savings and loan associations, and insurance companies, a tax credit equal to 25 per cent of the amount invested in the Fund is allowed against the applicable tax liability (e.g., premium tax on insurance companies, privilege tax on banks and savings and loan associations) if any.⁶⁸ However, a tax credit of up to 25 per cent of the total amount of the tax credits is allowed for any one taxable year, provided it does not exceed 25 per cent of the taxpayer's total tax liability for that year.⁶⁹ Individual taxpayers may take advantage of a state income tax credit which is similar to that of banks, etc.⁷⁰ These tax credits are allowable only on the first \$5 million of total investment in the Fund.⁷¹

B. Public Pension Funds

Another source of funds for providing venture capital to small businesses is the use of state public pension funds. In 1984, there were a total of over \$300 billion of state and local public pension fund assets, of which approximately \$600 million or less than one-half of one per cent, was invested in venture capital investments.⁷² Social investment of public pension funds may be made through either one or more of the following vehicles: (1)

promotion of state economic development through venture capital entities; (2) promoting home ownership by providing mortgage funds; and (3) divestment of funds in firms doing business in South Africa (protesting apartheid).⁷³ By 1984, at least twenty-five states had passed legislation or liberalized the pension fund investment criteria for venture or small business investment.⁷⁴ (Appendix E describes the changes in public pension fund investment restrictions.) Further, by 1985, at least seven states--Colorado, Illinois, Michigan, New York, Ohio, Oregon, and Washington had made public pension fund investments in venture capital projects.⁷⁵

In Michigan, the state treasurer is authorized by law to invest up to five per cent of the state retirement systems assets "in qualified small business or venture capital firms on an equity, debt, or warrant basis."⁷⁶ Investments are made by the staff of the Venture Capital Division, Michigan Department of Treasury, in "well-managed, high-growth, high-technology companies which yield a better than average return" on its investment.⁷⁷ As of 1985, the Venture Capital Division had invested \$112.8 million, of which approximately \$35.8 million was invested in high-technology oriented business, and the other \$77 million was invested in nine venture capital funds.⁷⁸

In Ohio, the Public Employees Retirement System (PERS) is authorized by law to invest up to 5 per cent of its assets in equity investments in venture capital limited partnerships firms; provided that: (1) the firms are headquartered in the state; (2) 50 per cent of the firm's employees and assets are located in the state; and (3) direct investment is made in Ohio based corporations which have not less than 50 per cent of their assets or employees in the state.⁷⁹ As of 1984, the PERS had invested directly in four venture financing transactions and one leveraged buyout for a total of \$57 million... [and] committed \$10 million to two venture capital limited partnerships."⁸⁰ The direct investments in businesses are made by the PERS staff and the venture capital limited partnership investments are privately managed by professional venture capital companies: the PERS expects a return of five times on its investment within a five-year period.⁸¹

Although public pension funds appear to be an attractive source of funds to increase venture capital investments, particularly in high-growth and high-technology oriented businesses, investments by the administrators of these funds may be restricted depending upon the type of standard imposed, i.e., legal list or prudent person. A legal list is usually a list of permissible investments that are specified by statute or government policy. The prudent person standard is established by statute or common law. Generally, the prudent person standard has three major requirements:⁸²

- (1) A "duty to maximize the return on the investments within an acceptable margin of safety";
- (2) "[D]iversify the fund's investments to minimize the risk of investments while increasing the return on investments"; and
- (3) To "act solely in the interests of the participants [of the fund] and [their] beneficiaries".

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In Hawaii, investments by the Employees' Retirement System of the State of Hawaii (ERS) are governed by section 88-119, Hawaii Revised Statutes, which appears to be a combination of a legal list and the prudent person standard. The statute enumerates specific permissible investments (e.g., various real estate loans and mortgages, government and corporate obligations), and uses the prudent person standard for investments in interests in improved or productive real property, and commodity securities traded under the federal Commodity Exchange Act, covered put and call options on securities traded on one or more exchanges, and stock.⁸³ Further, section 88-119(4) allows investment in shares of preferred or common stock of "any corporation created or existing under the laws of the United States or of any state or district"...provided that the book value of the total investment in such stock shall at no time exceed forty per cent of the total book value of investments in the system."

Although section 88-119 does not clearly specify venture capital types of investments, and assuming for the sake of argument, that the ERS could make equity investments either directly (e.g. purchase of a company's stock) or indirectly (e.g., investment in venture capital limited partnerships), the trustees' fiduciary duty to act in the best interest of the system's members and beneficiaries may be compromised,⁸⁴ particularly for investments in companies that are in the seed capital and start-up phases of development. These types of investments, as noted previously, are considered too risky for commercial lending institutions and unattractive to traditional venture capitalist. Further, public pension fund managers (trustees) may not possess the necessary expertise to identify and evaluate venture capital opportunities.

In addressing this particular situation, other states such as Michigan, Ohio, Oregon, and Colorado have undertaken "passive investments in the form of limited partnerships with other venture capital funds."⁸⁵ Under this type of arrangement, according to Bettger, supra (see footnote 36 for cite to the article), the public pension fund or designated state authority (e.g., state treasury) is a limited partner in a pool of limited partners with an experienced general partner or general manager. The limited partners provide the capital and the general partner or general manager (who may or may not contribute any capital) manages for a fee the investment portfolio. The public pension fund would not be an owner or manager of the venture, but would share the risk of any loss.⁸⁶ It has been stated that "professionally managed venture capital limited partnership is the most reasonable model for public pension involvement" in venture capital investments.⁸⁷

In Hawaii, the Legislature during the 1985 and 1986 regular sessions considered but did not enact any of the eight proposals which would have allowed the ERS to pool some of its funds with other investors for investment in venture capital investment businesses.⁸⁸ For example, one proposal allowed ERS funds to be invested in venture capital investment businesses through participation in limited partnerships and corporations, provided there are at least four unrelated owners in the investment, the ERS's interest and liability is limited to that of a limited partner, the ERS's participation is limited to one per cent of the total investment, and the investment will increase employment or capital investment in the State.⁸⁹ To date, the ERS has approximately \$3 billion in total assets.⁹⁰

In summary, the use of public pension funds for purposes of economic development, particularly for venture capital investment in small businesses is an attractive but not necessarily a conservative public pension fund type of investment. If the Legislature determines that public pension funds should be used for providing venture capital investments in businesses which have the potential for generating quality jobs and diversifying the economy, then section 88-119 should be amended to allow ERS funds to be pooled with other investors in a professionally managed venture capital limited partnership or corporation. The aggregate amount of ERS funds that may be invested should not exceed one per cent of the total amount of assets in the ERS (using the current \$3 billion in total assets, one per cent of that figure equals \$30 million), which is a more conservative figure than that authorized in Michigan and Ohio.

C. Loan Programs

1. Federal Assistance Programs

The Small Business Administration (SBA) was created by Congress in 1953,⁹¹ to "aid, counsel, assist, and protect, insofar as possible, the interests of small business concerns..."⁹² To carry out its mission the SBA, over the years, has implemented various programs and services. For purposes of this section, only the major loan programs providing direct assistance to small businesses are discussed below.

Generally, the SBA defines a small business as one which is "independently owned and operated and which is not dominant in its field of operation."⁹³ Eligibility for SBA financial assistance, and other assistance, such as the Minority Small Business and Capital Ownership Development Assistance programs, and federal government contract procurement is determined in accordance with established size standards (number of employees or annual receipts) for a particular industry.⁹⁴ For example, a business engaged in fresh or frozen packaged fish and seafoods with 500 or fewer employees and not dominant in its field of operation may be eligible for SBA financial assistance, e.g., direct loans or guaranty loans.

The SBA, through its Honolulu District Office, provides two basic types of business loans, guaranty or direct loans. General eligibility requirements for SBA loan assistance, in addition to size standard eligibility, include that a business be operated for profit and the applicant first seek financing from a lending institution. Under federal law, businesses engaged in the creation or distribution of ideas or opinions such as newspapers, magazines, and academic schools, and businesses engaged in speculation or investment rental real estate are ineligible for loan assistance.

Financial assistance to eligible small businesses may be used "for plant acquisition, construction, conversion, or expansion, including the acquisition of land, materials, supplies, equipment and working capital..."⁹⁵ The terms of a loan, with a maximum of 25 years, varies according to the purpose of the loan, e.g., working capital loans generally are for five to seven years and longer terms are generally for financing fixed assets such as acquisition or major renovation of a physical plant. Interest rates for the guaranty loan program are negotiated between the lender and borrower, subject to SBA

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guidelines. For the direct loan program, interest rates are calculated quarterly based on the cost to the federal government.

According to SBA materials, a guaranty loan involves the small business applicant, the lender (usually a bank), and the SBA. A two-tier review process is used for the loan application. First, the lender makes the initial review of the loan application. Second, if the application is approved by the lender, it is then forwarded to the SBA for its independent review. If the SBA concurs with the lender's recommendation to approve the loan application, the lender closes the loan and disburses the funds to the applicant. The SBA may guarantee up to 90 per cent of the loan amount, on loans up to \$155,000, and on loans exceeding \$155,000 the maximum guaranty is 85 per cent or \$500,000, whichever is less.⁹⁶

In brief, a typical guaranty loan business profile is an existing company (e.g., sole proprietor, "mom and pop" store), which has been in business for at least three years, and is seeking a loan of \$80,000 to \$100,000 for expansion.⁹⁷ For a start-up business, the SBA carefully reviews the management ability of the owner, and requires that the owner provide some of the up-front capital.⁹⁸

According to SBA materials, a direct loan is available only to applicants unable to secure a guaranty loan. However, loan funds are presently only available for certain types of borrowers, e.g., Viet Nam era veterans, disabled veterans, and handicapped individuals. Direct loans have an administrative limit of \$150,000.

According to data provided by the SBA Honolulu district office, for Hawaii during fiscal years 1982 through July 31, 1987, there were a total of 940 loan applications (both guaranty and direct). Of the 940 loan applications, 612 were approved, 304 were rejected or screened out, and 34 were withdrawn. In general, approximately 60 per cent of the applicants seek working capital and the other 40 per cent are start-up companies.⁹⁹ In terms of dollars, as of June 30, 1987, the SBA Honolulu Office had 931 loans outstanding worth \$46.78 million.¹⁰⁰ Of the 931 outstanding loans, approximately 400 loans totalling \$35.57 million were made under the guaranty loan program.¹⁰¹ Further, for the fiscal year ending September 30, 1987, 104 loans worth \$16.38 million were approved by the SBA district office.¹⁰²

Another notable SBA loan program is the Export Revolving Line of Credit Loan Program (ERLC). According to SBA materials, the ERLC is designed to assist small businesses in the export of goods and services, particularly to finance labor and materials for manufacturing or the purchase of goods and services from export, or to develop foreign markets. The SBA may guarantee up to \$500,000 or 85 per cent of the loan, whichever is less. For loans of up to \$155,000 the SBA's guarantee is 90 per cent. Under the ERLC program, the small business must fall within the applicable SBA size standard and meet other applicable SBA loan eligibility criteria. Further, the small business must have been in business for at least twelve months prior to applying for an ERLC loan and it must be current on all payroll taxes, as well as having in place a depository plan for the payment of future withholding taxes. Once the loan is approved, any number of withdrawals and repayments may be made within the stated maturity date of the loan (maximum maturity is eighteen months).¹⁰³

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Although it is not a loan program, the Small Business Innovation Research Program (SBIR) provides small businesses competitive opportunities to propose innovative technological concepts to meet the research and development needs of federal agencies. Under the Small Business Innovation Development Act of 1982,¹⁰⁴ federal agencies which have an extramural budget (the difference between amount of total obligation and amounts obligated for agency employees) for research and development (\$100 million or more) are required to expend certain percentages of that budget for an SBIR program. In general, an SBIR program is defined under the Act as a program under which a portion of a federal agency's research or research and development budget is reserved for award to small business concerns through three fundamental phases. Initially, solicitations for proposals are released by an agency. An idea or ideas are then submitted to the agency which determines their technical merit and feasibility. The idea or ideas are then further developed to meet particular agency needs. The third phase involves the commercialization of the results of the second phase and "requires the use of private or non-SBIR federal fundings."¹⁰⁵

The amounts of the SBIR awards in the first two fundamental phases are:¹⁰⁶

- (1) Phase I--\$50,000 or less to cover a six-month work period; and
- (2) Phase II--\$500,000 or less to cover a one- to two-year work period.

Under the Act, the SBA is required to issue policy directives for the general conduct of the SBIR programs which include simplified and standardized solicitation and award processes, and minimizing regulatory burdens for participating small business concerns. As required by the SBA policy directive, all agencies are required to issue program solicitations at least once a year.¹⁰⁷ During federal fiscal years 1983 through 1985, twelve federal agencies managed SBIR programs, in which a total of \$355 million were obligated: for the same period 43 solicitations were released; 27,000 proposals were received; and approximately 3,800 SBIR awards were made.¹⁰⁸

Recently, concern has been expressed regarding the uneven allocation of SBIR awards, e.g., since 1983 the SBIR program "directed 1,514 contracts to companies in California and 966 to Massachusetts companies", while three contracts went to companies in West Virginia and two to companies in South Dakota.¹⁰⁹ A consortium comprised of approximately 20 universities and colleges has been organized to address the alleged imbalance in the distribution of SBIR awards in the hopes of increasing their particular state's share.¹¹⁰ In Hawaii, at least four companies have obtained SBIR awards totalling \$1.25 million, since 1983.¹¹¹

2. Hawaii's Loan Programs

The state Department of Business and Economic Development (DBED) administers five state loan programs: the Hawaii Capital Loan Program; the Hawaii Innovation Development Loan Program; the Large Fishing Vessel Loan Program; the Small Fishing Vessel Loan Program; and the Disaster Commercial and Personal Loan Program. The Department of Agriculture administers the

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Agricultural Loan Program and the Aquaculture Loan Program. Each of the loan programs is financed through its own revolving loan fund.

The following discussion will highlight those loan programs which are directly related to providing initial financial assistance to eligible businesses in the State.¹¹²

Hawaii Capital Loan Program (HCLP).¹¹³ The HCLP, established by the Legislature in 1963, is designed to provide financial assistance to small businesses for "plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital."¹¹⁴ A "small business" is defined as "any business entity, including its affiliates and subsidiaries, which is non-dominant in its field and organized for profit, and which conforms with the SBA definition of a small business...."¹¹⁵

Under the HCLP, loans may be in participation with financial institutions including the SBA or made directly to the borrower, subject to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant (e.g., direct loans are available only when a participation loan is unavailable, and a participation loan is available if the applicant is unable to obtain the entire loan from a financial institution, SBA, or other source);
- (2) The amount of the loan or loans to any one applicant shall not exceed \$1 million;¹¹⁶
- (3) No loan shall be made for a term exceeding twenty years;
- (4) Each loan shall bear a simple interest rate of 7-1/2 per cent a year;
- (5) Repayment of the first installment on the principal of each loan may be deferred up to five years;
- (6) Payment of interest on the principal of a loan may be deferred up to two years from the issuance of the loan; and
- (7) Participating loans to any one applicant shall not exceed 90 per cent of the total loan requested.¹¹⁷

Eligibility requirements of the HCLP include:¹¹⁸ (1) the applicant is a small business concern authorized to do business in the State; (2) the applicant is unable to obtain the desired loan on reasonable terms from the financial institution principally dealt with; and (3) the applicant has the ability to repay the loan out of income from the business. In approving loans, the department is to consider the "nature of the business concern and the potential economic advantage it offers the State or the increased job creation the loan will provide."¹¹⁹

According to data supplied by the DBED, for the fiscal years 1982 through 1986, there were a total of 167 loan applications, of which a total of

80 loans were approved representing \$6,266,896 in loans. Of the 80 loans approved, 78 were to businesses with fewer than 100 employees. New jobs created were estimated at 317 for the same period. In terms of the number of loans outstanding by industry classification, as of April 17, 1987, more than one-third of the loans were in manufacturing industries (e.g. electronics, garment, fruits, etc.) which comprised approximately 37 per cent or 41 loans of the the total number of loans and accounted for 38 per cent or \$2.8 million of the total amount of loan dollars. (See Appendix F for the breakdown by industry of the number of loans outstanding and original loan amounts.) As of December 31, 1986, a total of 25 loans were delinquent, representing \$724,871 or 15 per cent of the total dollar amount of loans outstanding.¹²⁰

Hawaii Innovation Development Loan Program (HIDP).¹²¹ In 1981, the Legislature established the Hawaii invention development revolving fund (now the Hawaii innovation development revolving fund),¹²² to promote the development of new products or innovations that directly benefit the economy of the State. Under section 211E-2, Hawaii Revised Statutes, the department is authorized to make low-interest loans to inventors for the development of their "products" or "inventions".¹²³ Further, the department is required to prescribe the form of financing (furnishing of risk capital), as defined under section 211E-1, participation it may engage in as a result of making a loan under the program, including warrants, options, or royalties on sales or earnings.¹²⁴ Simple interest rates on HIDP loans may not exceed 7-1/2 per cent.

Although the department is in the process of amending its rules for the HIDP pursuant to Act 242, Session Laws of Hawaii 1987,¹²⁵ the following is a description of some of the department's existing rules regarding eligibility and loan types:¹²⁶

- (1) Loans shall be used for the purpose of financing the acquisition of equipment, machinery, materials, or supplies, or for working capital;
- (2) Direct and participating loans are available in a manner similar to the HCLP; and
- (3) Eligibility requirements are similar to those under the HCLP, but with requirements for patent rights and copyrights.¹²⁷

As of 1986, no loans have been made under the HIDP "due to relatively few applications received" by the department.¹²⁸

Hawaii Fishing Vessel Loan Programs.¹²⁹ The Hawaii Large Fishing Vessel Loan Program was established in 1965 to provide financial assistance to individuals or businesses for the purchase, construction, renovation, maintenance, or repair of vessels weighing five net tons or more which are designed to be used in commercial fisheries (e.g., catching, processing, or transporting fish). Loans under this program may be made in participation with loans made by other financial institutions, subject to the following restrictions and limitations:

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- (1) No loan shall exceed 80 per cent of the cost of purchase, construction, renovation, maintenance, or repair of a vessel;
- (2) The maximum amount of a loan for renovation, maintenance, or repair shall not exceed \$50,000 nor have a term of more than ten years;
- (3) The maximum term on a loan for the purchase or construction of a vessel shall not exceed twenty years;
- (4) Each loan shall bear simple interest at the rate of 7-1/2 per cent a year;
- (5) Repayment for the first installment on the principal of each loan may be deferred for a period not to exceed two years; and
- (6) The applicant must derive or plan to derive at least 51 per cent of the applicant's gross annual income from commercial fishing activities with the vessel for which the loan is requested.¹³⁰

In 1975, the Legislature established the Hawaii Small Fishing Vessel Loan Program to provide financial assistance to individuals or businesses for the purchase, construction, renovation, maintenance, and repair of fishing vessels under five net tons. Loan requirements and restrictions for this program are similar to that of the large fishing vessel program, except that no loan shall exceed \$50,000 nor exceed a term of ten years.

According to data provided by the department, for the fiscal years 1982 through 1986, the Large Fishing Vessel Program received a total of 61 loan applications, of which 37 were approved and accounted for a total of \$3,364,663 in loans. For the same period, the Small Fishing Vessel Program received a total of 63 loan applications; of which 40 were approved and accounted for a total of \$819,742 in loans. As of December 31, 1986, there were 51 outstanding loans for the Large Fishing Vessel Program of which 36 were delinquent (i.e., 30 days to over 90 days past due) totalling over \$3.5 million or 79 per cent of the total dollar amount of the outstanding loans.¹³¹ For the same period, the Small Fishing Vessel Program had a total of 47 loans outstanding, of which 25 delinquent loans totalled over \$489,790 or 67 per cent of the total dollar amount of the outstanding loans.¹³² As a consequence of the high delinquency rate and "the poor economic condition of the commercial fishing industry and the high cost and/or difficulty in obtaining hull insurance", a moratorium was imposed on loans for the purchase or construction of vessels for both programs during 1986.¹³³

Agricultural Loan Program.¹³⁴ The Agricultural Loan Program (Program), which is administered by the Department of Agriculture was established in 1959 to promote agriculture development within the State by providing financial assistance to qualified farmers, meaning persons of proven farming ability, operating a farm from which at least one-third of the person's time is devoted to or net cash income is derived from direct participation in farming. The Program, like the HCLP, is designed to provide loans to eligible borrowers not otherwise available from other financial institutions or sources at reasonable rates.¹³⁵

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Under the Program, participation loans and direct loans may be made to a qualified farmer or a person under the new farmer program who is a citizen of the United States and has resided in the State for at least three years or an alien who has resided in the States for at least five years, is a sound credit risk with the ability to repay the loan, and is willing to carry out recommended farm management practices, subject to lending restrictions and limitations which include:¹³⁶

- (1) A loan under the Program is available only if the loan cannot be made by the Farmers Home Administration, the Federal Land Bank Association of Hawaii, the Production Credit Association of Hawaii, or the Sacramento Bank for Cooperatives, and by at least two private lenders;
- (2) Participation in loans made with a private lender may not exceed 90 per cent of the total amount requested;
- (3) Insured loans may not exceed 90 per cent of the loan made by a private lender. The aggregate of the guaranty and participating loans shall not exceed \$10 million;
- (4) Direct loans are available to qualified farmers who are unable to obtain sufficient funds at reasonable rates from private lenders, the Farmers Home Administration, or do not qualify for the department's participating and guaranty loans; and
- (5) Loans made under the Program are subject to the requirements (the purpose of loan, maximum amount of the loan, terms of the loan, etc.) for each particular class of loans, i.e., farm ownership and improvement (class A), soil and water conservation loans (class B), farm operating loans (class C), emergency loans (class D), loans to cooperatives and corporations (class E), and loans for new farmer programs (class F).¹³⁷

According to data provided by the Department of Agriculture, for the calendar years 1982 through 1986, the number of loans and dollar amounts for the above five classes of loans totalled 1,021 loans representing an aggregate amount of over \$15.8 million. Farm operating loans (class C) accounted for approximately 85 per cent or 866 of all loans made. The direct and insured loans were used most frequently. Also, for the period 1982 to October 14, 1987, a total of thirteen loans were considered losses totalling over \$196,000.

Aquaculture Loan Program.¹³⁸ The Aquaculture Loan Program was established in 1971 to financially assist the development of aquaculture in the State. "Aquaculture" is defined as "the production of aquatic plant and animal life for food and fiber within the ponds and other bodies of water within the real property for which real property taxes are assessed and paid by the owner or developer."¹³⁹ Under the program, the department may make loans to qualified aquaculturists for aquacultural products development such as the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for working capital, subject to certain loan

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restrictions and limitations which include:¹⁴⁰

- (1) Participation in loans made by a private lender who is unable to lend the borrower sufficient funds at reasonable rates and the borrower is unable to obtain the same from the Farmer's Home Administration, may not exceed 90 per cent of the total amount of the loan;
- (2) Insured loans may not exceed 90 per cent of the total amount of the loan made by a private lender who is unable to lend the borrower sufficient funds at reasonable rates;
- (3) The aggregate amount of the State's liability for participating and insured loans may not exceed \$1 million; and
- (4) The loans made under the program are subject to the requirements (the purpose of the loan, maximum amount of the loan, terms of the loan, etc.) for each particular class of loans, i.e., aquaculture farm ownership and improvement loans (class A), aquaculture operating loans (class B), and aquaculture cooperative and corporation loans (class C).

According to data provided by the Department of Agriculture, for the calendar years 1982 through 1986 there were a total of nine loans made representing a total of \$377,000 for class A and class B loans. In a 1985 report to the Legislature, the department stated that loan activity was expected to increase through 1990.¹⁴¹ Since the report, there were approximately eleven loan inquiries with no loan approvals for 1986. For the period January 1, 1987 to August 31, 1987, according to data provided by the Department of Agriculture, ten loan inquiries were received and three loans were approved (class A and class B loans--commodities were Chinese catfish and tilapia).

In addition to the above loan programs, the Special Purpose Revenue Bonds (SPRB) is another source of capital from which eligible manufacturing, processing, and industrial enterprises may obtain low interest loans for acquisition, purchase, construction, reconstruction, improvement, extension, or maintenance of a project.¹⁴² Unlike the State's general obligation bonds, the issuance of SPRBs for each project or multi-project program must first be approved by a separate act of the Legislature; the SPRBs are not general obligations of the State (State is not responsible for repayment of the debt); and the SPRBs are not included within the debt ceiling for purposes of state expenditures.¹⁴³ Further, the SPRBs and income derived therefrom are "exempt from all state and county taxation except inheritance, transfer, and estate taxes".¹⁴⁴

Once the SPRBs are approved by the Legislature, the Department of Budget and Finance, after entering into a project agreement with the project party, may issue the SPRBs. Each project party is required to estimate the "benefits derived from the use of the providers" of the SPRBs, based on "creation of new jobs and potential effect on tax receipts."¹⁴⁵ As of October 1987, there were a total of at least ten projects that were approved by the Legislature, representing a total of \$122 million in authorized SPRBs.¹⁴⁶ (See

Appendix G for the breakdown of the ten projects.)

III. Business Development Programs and Services

A. Small Business Development Centers (SBDC)

In addressing the problem of the lack of managerial experience among small business owners and managers which, as noted in Chapter 4, is a major factor in the failure of such businesses; about 44 states operate one or more SBDCs, according to a recent report entitled "Models of State Entrepreneurial Development Programs", by the Wisconsin Department of Development (1987), p. 40.

Under the federal Small Business Development Center Act,¹⁴⁷ the SBA is authorized to make matching grants (50 per cent federal match) to a state government or agency, any institution of higher education, or any state-chartered development, credit or financing corporation, for the establishment of SBDCs. Under the Act, some of the services an SBDC must provide include:

- (1) Individual counseling to small businesses;
- (2) Maintaining current information concerning federal, state, and local regulations that affect small businesses and to counsel small businesses on methods of compliance;
- (3) Maintaining lists of local and regional private consultants to whom small businesses can be referred;
- (4) Coordinating and conducting research on technical and general small business problems which are not easily solved;
- (5) Maintaining a working relationship with financial and investment communities, legal associations, local consultants, and local business groups and associations to help address the various needs of the small business community;
- (6) Assisting in the transfer of technology from existing sources to small businesses; and
- (7) Providing problem solving assistance to small businesses in the areas of operations, marketing, finance, business strategy development, personnel, administration, and other disciplines required for small business growth, and decreasing industry economic concentrations.

An applicant may apply for participation in the SBDC program by submitting a plan to the SBA indicating the authorized entity or entities (e.g., government agency or university), the geographic area to be served, services to be provided, methods for delivery of services, a budget, and other information required by the SBA. The SBDC must be located where it can provide maximum accessibility and benefits to small businesses within a

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targeted geographic area. In addition, each SBDC must establish an advisory board as well as provide full-time staff and access to technical professionals such as business analysts, technology-transfer agents, and information specialists.

In the states which have implemented SBDCs, many of the SBDCs are within universities. For example, Connecticut, Kansas, Louisiana, North Carolina, Mississippi, and Wisconsin have their SBDCs and regional offices either located within and administered by universities or located within universities. Apparently, the advantage of this type of arrangement is the proximity to higher educational institutions from which faculty and support services are easily accessible for business management consulting, marketing research, and other research activities and facilities.

The North Carolina Small Business and Technology Development Center (SBTDC)¹⁴⁸ established in 1984 at the University of North Carolina has seven university regional service centers which are responsible for delivering SBTDC's services within their assigned geographic territories. Services provided include management and technical assistance through individual counseling sessions, targeted special training workshops which complement other training programs conducted by the SBA, chambers of commerce within the state, and special programs such as procurement assistance for obtaining contracts from the federal government. The SBTDC has made extensive use of graduate students in providing the services. The SBTDC enters into written agreements with host institutions (regional service centers) setting forth the extent of budgetary support from the SBTDC, program performance requirements, as well as fiscal control and reporting requirements. The SBTDC headquartered at the University of North Carolina at Chapel Hill, has a staff of seven (an executive director, two assistant directors, an executive secretary, an accounting technician, a clerk-typist, and a data entry clerk) and two graduate assistants. Initially each regional center is funded annually at \$100,000 which provides for one or two professional staff, support services, and operating expenses. The overall funding level for the SBTDC is approximately \$1.1 million, of which \$700,000 is committed to the regional service centers, \$250,000 for administrative services, and \$150,000 for special programs. Sources of funding include state funds, federal funds through the SBA, and private sources.

The Kansas Small Business Development Centers (KSBDCs),¹⁴⁹ established in 1983 at Wichita State University, have eight regional centers located at participating colleges and universities. Services provided by the regional SBDC include individual business counseling by professionally trained consultants (private/professional/advisors, faculty members, graduate students, etc.), training workshops and seminars, and procurement assistance in obtaining government contracts. Funding of the KSBDC for fiscal year 1987 totalled over \$1.694 million from federal sources such as the SBA and university matching funds and state funds.

In at least two states, Oregon and Washington, a state agency is designated and authorized to establish business assistance centers. The Washington Business Assistance Center,¹⁵⁰ within the state department of trade and economic development, was established to: (1) provide comprehensive referral services to businesses; (2) serve as the business ombudsman within state government and advise the governor and legislature

of the need for new legislation to improve the effectiveness of state programs assisting business; and (3) cooperate with other public and private agencies and organizations to ensure that business assistance services are delivered in a cost-effective manner.

Oregon has taken a different approach in structuring a small business development center program in which the state economic development department is authorized to make grants to community colleges to assist in the formation of small business development centers.¹⁵¹ Community colleges serve as the statewide network of these centers to link small businesses with college resources and business resources throughout the state. The grant funds are to be used for salaries of center personnel and to retain expert business resource and training services.

Wisconsin's Small Business Development Center Information Service administered by the University of Wisconsin, disseminates a variety of business-related information, directly or indirectly through its affiliates, to business owners and managers throughout the state.¹⁵² In providing the information to users throughout the state, the Wisconsin program has developed objectives and tasks which may be appropriate for other states exploring the possibility of establishing a similar type of program (see Appendix H). Services provided include not only general business information but also in-depth searches such as "information on home-based businesses; the amount of lime used in Wisconsin each year; how to find suppliers for a pet store".¹⁵³ Suggested staffing for developing a comprehensive business information service includes an information specialist or librarian, one clerical assistant, and two or three part-time assistants (who may be students).¹⁵⁴

From the preceding discussion, it is evident there are various ways of using the SBDC as a vehicle for service delivery of business information, managerial, and other technical assistance to small businesses. It is one method of coordinating local or community public and private business services and resources which will assist in maximizing the effectiveness of those services, as well as to integrate those services into a comprehensive service delivery system.

In Hawaii, although there is no established small business development center, general information and referral services and managerial and technical assistance are being provided by various public and private agencies and organizations. The following discussion highlights the major services provided by those agencies and organizations.

1. Government Programs and Services

The SBA.¹⁵⁵ In general, according to SBA materials, the SBA's Business Development Program offers a variety of services to small businesses with a special emphasis on improving management skills of owners and managers through such means as:

- (1) Individual counseling on particular needs of a small business through the SBA business development staff, the Service Corps of

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Retired Executives (SCORE), the Active Corps of Executives (ACE), and professional associations;

- (2) On-site management counseling is provided through Small Business Institutes (SBIs) at the University of Hawaii at Manoa, University of Hawaii--Hilo, Maui Community College, and Hawaii Pacific College;
- (3) Pre-business workshops for prospective business owners on topics such as finance, marketing assistance, and business site location; and
- (4) Management, marketing, and other technical publications available at no charge or for a small fee.

State Small Business Information Service (SBIS).¹⁵⁶ The SBIS, operating as an activity (not an office) within the Business Development Branch of the Department of Business and Economic Development (DBED), functions primarily as a business information and referral service.¹⁵⁷ Current staffing includes two business information specialists and one clerk typist. According to DBED, some of the major activities conducted by the SBIS include:

- (1) Permit and licensing information service for prospective business owners planning to engage in a particular business in the State. Information provided includes a list of permits and licenses (federal, state, and county) required for the particular business activity, the issuing agency, and its address and phone number;
- (2) Researching and providing copies, upon request, of appropriate federal, state, and county rules applicable to a specific activity, e.g., sanitation code as it applies to restaurants. Generally, the SBIS does not interpret any codes or rules of other agencies;
- (3) Providing market information, upon request, such as a listing of firms engaged in a particular business activity and suppliers of specific goods, and statistics on potential users of certain goods or services. Market feasibility studies, market segment, and other in-depth marketing research are not provided;
- (4) Preparing booklets and other informational materials for distribution such as "Starting a Business in Hawaii" and "Hawaii's Business Regulations";
- (5) Maintaining information on training workshops, seminars, etc., and promotional materials of other agencies providing consulting, management, and technical assistance; and
- (6) Maintaining working relationships with other agencies and professional and trade associations which provide services and assistance to small businesses.

In addition to services provided by the SBIS, according to a news article in Pacific Business News, a Kauai Business Center will be established

at Kauai Community College through funding of \$15,000 from the Kauai Economic Development Board.¹⁵⁸ The business center will serve as an information service as well as an entrepreneurial training center. Marketing and advertising research for retail products is also available from the Sullivan Training and Research Laboratory at the University of Hawaii, Manoa. The laboratory includes a miniature supermarket in which students test the effectiveness of package design and placement, and study consumer reactions to package design, label, price differentials, and brand names. Small local businesses have used the laboratory to test their products or develop marketing strategies, for which a minimal fee is charged to cover electricity and custodial services.¹⁵⁹

2. Private Sector Programs and Services

The Chamber of Commerce of Hawaii (Chamber), Small Business Center (Center).¹⁶⁰ The Center, through the Small Business Council (Council) of the Chamber provides individual counseling on various subjects depending upon the person's particular needs. Counseling is available to members of the Chamber and nonmembers at no charge; loan package preparation is at \$25 per hour.

The Center's current staff consists of a director, financial advisor, and administrative assistant. The director, after determining the counseling needs of a client, refers the client to the appropriate Center staff or Council member or members. There are no limitations as to the number of times a client may receive counseling services.

Council membership is by invitation only and is comprised of approximately 30 members who are business owners, managers, executives, and professionals. Each member is required to make available at least five to ten hours per month of pro bono counseling services. The various types of counseling services that are available from the Center and Council members include:

- (1) Loan package preparation;
- (2) Business projections;
- (3) Cost analysis;
- (4) Cash flow;
- (5) Financial statements;
- (6) Accounts receivable;
- (7) Legal advice (non-litigation), e.g., business formation and fee collection;
- (8) Advertising, marketing, and position assistance;
- (9) Communication systems assistance;

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- (10) Verbal assistance with business plans;
- (11) Personnel management assistance; and
- (12) Several resource people provide counseling in the general areas of importing, manufacturing, wholesaling, retailing, fast food businesses, and health care.

In addition, the Center provides an entrepreneurial training program which is designed for individuals who exhibit the best potential for creating their own viable business. The program is a 12-week course in which classes are held twice a week. The program's major focus is developing a formal business plan. The fee for the course is \$275. The Center also sponsors monthly workshops and seminars on such topics as time management, financial management, the legalities of hiring and firing employees, record keeping and the Internal Revenue Service, advertising for the small business budget, and maximizing the sales of products or services. A fee is charged to workshop participants to cover expenses for mailing, handout materials, and breakfast or lunch.

Honolulu Minority Business Development Center (HMBDC).¹⁶¹ Although the HMBDC has recently closed its doors because its grant from the Minority Business Development Agency of the U.S. Department of Commerce was not renewed, a brief summary of the HMBDC's services is provided below.¹⁶² The HMBDC, which was operated by The Chamber of Commerce of Hawaii, provided three basic services at a subsidized fee to qualified minority business owners:

- (1) Financial assistance services, which included assisting a client in filling out appropriate loan application forms, preparing a formal business plan, and assistance related to accounting and financial statements;
- (2) Marketing advice on how to market a product or service; and
- (3) Government contract procurement assistance, which included providing information on current bids, upcoming bids, and contract awards for construction, supplies, and services from federal, state, and county departments or agencies.

There are at least two other private sector providers of business development services--The Hawaii Entrepreneurship Training and Development Institute (HETADI) and Alu Like's Business Assistance Program. HETADI's basic business development educational training program targets post-secondary and adult populations, with a focus on venture development.¹⁶³ The educational program emphasizes a practical approach in which participants prepare a business plan, as well as learning business management skills. General business consulting services such as business planning and marketing assistance, are available to private businesses for a fee.

Alu Like's Business Assistance Project (implemented in January 1987, but has been temporarily discontinued as of November 1987) provided free

management and technical assistance for the start-up and expansion of businesses owned by native Hawaiians on Oahu.¹⁶⁴ The Project assisted clients in developing business plans and marketing plans, and provided loan packaging assistance, as well as general management counseling services. According to Alu Like, its Business Assistance Project is currently undergoing research into the possibility of providing additional business assistance services on a statewide basis. The Project will not be providing direct services during this research phase. Alu Like expects to have in place an expanded business assistance project by early 1989.

B. One-Stop Business Permitting and Licensing Centers

One purpose of establishing a one-stop permitting center is to facilitate and expedite the ability of businesspersons to obtain required permits and licenses. By eliminating the duplication of effort that may be required to obtain multiple state permits and licenses as well as providing a central location for information and necessary forms, the centers enable businesspersons who are either exploring or are in the latter stages of preparing to engage in business activities to better understand applicable rules or requirements, and possibly enter the marketplace much more quickly. The state, in providing the service, indirectly benefits through businesses' contributions to the economy, such as jobs for its citizens, and taxable business and personal income.

At least eleven states: Colorado, Connecticut, Kansas, Illinois, Louisiana, Mississippi, Montana, New Jersey, New York, North Carolina, and Wisconsin have established a central office within a state agency to provide a system in which persons planning to engage in a particular business activity may obtain the necessary forms, applications, and information for any required permit and license relative to the particular business activity.¹⁶⁵

The scope of activities and responsibilities of a one-stop business permitting center may vary depending upon the amount of resources a state is willing to commit. Some states have established a center to merely provide a clearinghouse for information on the types of permits required for a particular business activity and the necessary forms and applications. Other states have taken a more active role in facilitating and expediting the obtaining of required permits and licenses by authorizing the development of a master application form and monitoring the permit review process. In all of the aforementioned eleven states, the agency or agencies having jurisdiction over the particular business activity and the authority to issue permits, retain their jurisdiction and authority. A one-stop business permit center does not grant any permits. At least two states, Colorado and North Carolina, have expressly excluded occupational licenses and environmental licenses or permits.

In the states that have established a clearinghouse for information and application forms (Connecticut, Kansas, Illinois, Louisiana, and Montana), the enabling legislation enacted by each state established a one-stop permitting center within its department of commerce or economic development, and required the center to perform certain activities. For example, Connecticut's One-stop Business Licensing Center (Center) within the department of economic development is required to obtain information on all registration,

regulatory, licensing, permitting, and approval requirements from state agencies having jurisdiction over any firm, person, or corporation intending to do business in the state.¹⁶⁶ Upon request for information on engaging in a particular business activity, the Center is required to determine the size and nature of the business and the intended activities. Based on that information, the Center is required to provide the requesting party a written notice indicating: (1) the state agencies which the party must contact; (2) the applicable registration, regulatory, permitting, and approval requirements; (3) the applicable renewals for the requirements; (4) any applicable fees; and (5) the name of the contact person at each agency for each requirement. The requesting party must comply with all applicable state requirements even if the Center inadvertently omitted it in the written notice.

In Illinois, the Business Assistance Office was established within the department of commerce and community affairs to provide information for all state government forms and applications to new and existing businesses through a business permit center.¹⁶⁷ Each state agency is required to cooperate with the business permit center in providing the information, materials, and assistance, as well as to designate an individual within the agency as the liaison to the center.

In states that have taken a more active role in assisting businesses to secure required permits and the necessary information and forms (Colorado, Mississippi, New Jersey, New York, North Carolina, and Wisconsin), the permit centers' scope of activities have been expanded to include one or more of the following: advocacy activities; the provision of consolidated hearings, when applicable; requiring each regulatory state agency to develop a plan for one-stop permitting; and providing a master application form. For example, Wisconsin's Permit Information Center (Center) within the department of economic development, in addition to providing information on required permits for a particular business activity, is required to:¹⁶⁸

- (1) Provide advocacy services before regulatory agencies (agencies responsible for granting a permit) on behalf of the permit applicant, e.g., monitoring the application approval process to assure that permits are granted within the shortest amount of time possible by law or rule;
- (2) Upon request by a permit applicant, resolve misunderstandings between the person and the regulatory agency and prevent delays in the application approval process to the extent possible; and
- (3) Maintain and publicize the toll-free telephone line available to in-state callers to the Center as well as publicize the services of the Center.

Each regulatory agency is required to cooperate with the Center staff by interpreting the requirements for granting or denying its permits and providing information on the agency's permit process. Further, each regulatory agency is required to designate a staff person to coordinate its cooperation with the Center's staff. Upon the request of an applicant or the Center, each regulatory agency is required to provide the opportunity for an informal pre-application meeting with its staff to identify all permits required

by the agency for the business activity and to explain the steps involved and time required for each step of the permit process.

North Carolina's Business Information Office (BIO)¹⁶⁹ established within the department of the secretary of state provides similar services and performs similar functions as Wisconsin's Permit Information Center, except the BIO is required to develop an operating plan for an automated master application system. The system is to consolidate the information into a single master application form.¹⁷⁰

C. Small Business Ombudsman

An ombudsman can be described as a "grievance man", "citizens protector", or "citizens defender", whose basic function is the impartial handling of individual complaints against particular administrative acts of government agencies.¹⁷¹ Typically, an ombudsman, after receipt of a complaint, determines the merits of the complaint (e.g., complaint unfounded or beyond its jurisdiction, or warrants an investigation). If the complaint warrants an investigation, the ombudsman will impartially pursue the matter with the particular agency. In instances where a claim is found to be meritorious, the ombudsman recommends to the agency corrective actions to *rectify the particular problem*. The ombudsman has no authority to compel the administrative agency to accept the recommended corrective actions.¹⁷²

A small business ombudsman can be perceived as performing the similar basic function of a typical ombudsman.¹⁷³ In states which have a government ombudsman to handle complaints impartially against administrative acts of government agencies, such as Hawaii,¹⁷⁴ the need for another similar ombudsman for small business is not as evident as compared to a state which has no ombudsman at all. The obvious reason is that the efforts of the small business ombudsman would be duplicative, unless there are significant and substantial regulatory problems unique to small businesses.

This, however, is not the case in Hawaii. With the exception of state government programs specifically for small business, such as the Hawaii Capital Loan Program, rules adopted by state agencies pursuant to a particular authorizing statute usually apply to businesses in general.¹⁷⁵ Under chapter 96, Hawaii Revised Statutes, the Ombudsman is authorized to investigate complaints against the administrative acts of state and county agencies which the Ombudsman determines are appropriate for investigation if, for example, an administrative act is contrary to law or unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law.¹⁷⁶ Further, for purposes of public utilities regulation and ratemaking, under section 269-51, Hawaii Revised Statutes, the consumer advocate is required to "represent, protect, and advance the interest of all consumers, including small businesses, of utility services."

In states which have established a small business ombudsman, the primary role of those ombudsmen is advocacy rather than investigation. For example, Wisconsin's Small Business Ombudsman within the department of development: (1) monitors legislation and rules affecting small businesses and provides information to small business groups and the legislature; (2) assists businesses with complaints regarding state laws, or administrative rules; and

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(3) provides information and referral on programs designed for small business.¹⁷⁷ New York's Business Services Ombudsman Program within the department of commerce: (1) assists businesses in resolving bureaucratic problems encountered with government agencies; (2) serves as an advocate of business and recommends new laws and regulations to improve the business climate; (3) works with business firms and the state tax department to solve tax problems and expedite tax refunds as well as work with business organizations and trade associations to address specific problems of the business community; and (4) monitors the state regulatory process.¹⁷⁸

In Florida, the Bureau of Business Assistance within the division of economic development, department of commerce serves as the ombudsman for small and minority businesses. The ombudsman is broadly defined "as an office or individual whose responsibilities include providing assistance to small and minority businesses dealing with governmental agencies."¹⁷⁹ According to the Bureau of Business Assistance, as part of the ombudsman program the Bureau monitors state agency rules and regulations to determine its impact on small businesses. If the rule or regulation has a negative impact, the Bureau makes specific recommendations to the particular agency. In 1985 a small and minority business advocate position was created within the department of commerce to serve as an advocate of the small and minority business community as well as representing the small and minority business advisory council.¹⁸⁰ The advocate's duties include: (1) commenting at public hearings on issues and concerns of small and minority businesses which include legislation affecting small and minority businesses; and (2) representing the interests of small and minority businesses regarding rules or regulations which may affect those businesses.¹⁸¹

For Hawaii, if there is to be a state small business ombudsman, the most appropriate role and function are that of a business advocate. An investigatory function for complaints against administrative acts of state and county agencies would duplicate the efforts of the state's ombudsman's office, and thus is not necessary. A business advocate would serve the small business community by receiving complaints concerning laws, rules, or policies which affect small businesses, and by developing with the cooperation of the particular regulating agency proposals to resolve the problems or concerns. The business advocate could also assist the small business community in addressing legislative and administrative issues affecting small businesses. One possible vehicle providing the catalyst for the functions and services of the business advocate is through the establishment of a small business advisory council. Currently, the Governor's Small Business Advisory Committee, which is a group of businesspersons and state executive directors, provides a forum for the discussion of issues of particular concern to small businesses from which recommendations on legislative or administrative matters are submitted to the Governor.¹⁸²

IV. Regulatory Flexibility

In 1980, Congress enacted the Regulatory Flexibility Act (RFA)¹⁸³ for the declared purpose "to establish a principle of regulatory issuance that [federal] agencies shall endeavor, consistent with the objectives of the rules and applicable statutes, to fit regulatory and information requirements to the

scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration."¹⁸⁴ The impetus for the enactment of the RFA is the fact that uniform regulatory and reporting requirements have imposed "unnecessary and burdensome demands including legal, accounting, and consulting costs upon small businesses", even though they may not have caused the problems that gave rise to a particular governmental regulation.¹⁸⁵ Further, smaller businesses with limited resources are at a competitive disadvantage as compared to larger businesses in terms of costs of compliance with governmental regulations. For example, "if a smaller firm's cost of compliance goes up with increasing output [production] and a larger's firm cost of compliance goes down with each additional unit of output, and all else remaining equal..., then the larger firm has a competitive advantage over the smaller firm."¹⁸⁶

The problems associated with governmental regulations experienced by businesses also extend to state regulatory schemes. At least 23 states have enacted some type of regulatory flexibility legislation, most of which are modeled after the RFA.¹⁸⁷ The RFA applies to every rule for which the federal agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act for public notice and comment, subject to certain exceptions, e.g., interpretative rules (rules "intended only to implement a statute and in which Congress has not delegated legislative-type authority to the agency").¹⁸⁸

The major components of the RFA relative to a rule's expected impact upon "small entities" (small business, small organization, small government jurisdiction) as defined under 5 U.S.C.A. §601, include:

- (1) Allowing an agency to certify that a rule does not have a "significant economic impact on a substantial number of small entities", if the agency finds that the rule will neither benefit or adversely affect small utilities.¹⁸⁹ Thus, no further regulatory flexibility analysis is required;
- (2) An initial regulatory flexibility analysis must be prepared whenever an agency is required to publish a general notice of proposed rulemaking for any proposed rule. The analysis must contain;¹⁹⁰
 - [(a)] a description of the reasons why action by the agency is being considered;
 - [(b)] a succinct statement of the objectives of, and legal basis for, the proposed rule;
 - [(c)] a description of and where feasible, an estimate of the number of small entities to which the proposed rule will apply;
 - [(d)] a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be

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subject to the requirement and the type of professional skills necessary for preparation of the report or record; [and]

- [(e)] an identification, to the extent practicable, of all relevant federal laws which may duplicate, overlap or conflict with the proposed rule.

Further, each initial analysis must also describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule upon small entities such as: "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance standards rather than design standards; or (4) an exception from coverage of the rule, or any part thereof, for such small entities;"¹³¹ and

- (3) The final regulatory flexibility analysis is required when an agency issues a final rule. The agency may again certify that the rule will not have a significant impact on a substantial number of small entities, and thus no further analysis is required. The final regulatory flexibility analysis must contain:¹³²

- (a) a statement of the need for, and the objectives of, the rule;
- (b) a summary of issues raised by public comments, an assessment of those issues, and a statement of any changes made to the proposed rule as a result of the public comments to the initial regulatory flexibility analysis; and
- (c) a description of each significant alternative to the rule consistent with the stated objectives of applicable statutes as well as indicating the reasons why each one of the objectives were rejected.

In addition to other procedural requirements relative to publishing the regulatory flexibility analyses and certifications in the Federal Register for public review and comment, the RFA requires each federal agency to publish in the Federal Register a "regulatory flexibility agenda" which describes the subject area of the proposed rule, a summary of the rule, and the name and telephone number of the agency official knowledgeable of the rule.¹³³

There is no direct enforcement for agency compliance with the RFA. The chief counsel for advocacy of the Small Business Administration (SBA) is required to monitor agency compliance with the RFA and report annually to the President and special congressional committees.¹³⁴ Congressional oversight is the indirect enforcement mechanism for the RFA. Further, there is no direct judicial review of an agency action under the RFA. 15 U.S.C. §611(a) and (b), provides that any flexibility analysis prepared under the Act and an agency's compliance or noncompliance of the Act are not subject to judicial review. A regulatory flexibility analysis is part of the whole record

of the agency action in connection with an action for judicial review of the rule.

Another significant component of the RFA is the requirement for periodic review of agency rules. Each agency is required to develop a plan for the periodic review of the rules issued by the agency "which have or will have a significant economic impact upon a substantial number of small entities."¹⁹⁵ The purpose for periodic review is "to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the state objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities."¹⁹⁶ The agency is required to review those rules within ten years from the effective date of the RFA (January 1, 1981) for rules existing prior to the RFA or within ten years from the publication of the rules as final for rules adopted after January 1, 1981.

How effective is the RFA? According to the SBA's chief counsel for advocacy most recent annual report, the RFA "has generally been successful in improving rulemaking proceedings. Many federal agencies have improved their regulatory decisions by (1) using better economic data; (2) increasing communications with the small business community and the Office of Advocacy; (3) considering and analyzing alternatives; and (4) developing rules more finely attuned to the concerns of small businesses."¹⁹⁷ However, the report also states that there are recurring problems such as (1) failure of agencies to consider regulatory efficiency (competitive impact of regulations on small entities); (2) exemptions of rules from the RFA, e.g., interpretative rules, rules relating to agency management or to public property, loans, grants, benefits, or contracts; and (3) bifurcated rulemaking which involves a two-tier process in which an agency uses the notice and comment provisions of the Administrative Procedure Act for generic rules to implement its statutory obligations which are later further developed into specific regulatory directives that are not required for public notice and comment.¹⁹⁸

In Hawaii, the issue of regulatory reform for small business is not new.¹⁹⁹ During the 1982 and 1983 regular sessions, the Legislature considered, but did not enact, at least two proposals which, among other things, would have required an agency, prior to the adoption, amendment, or repeal of a rule, to prepare an economic impact statement of the proposed action upon small businesses.²⁰⁰ The legislation also provided for periodic review of agency rules having an impact on more than 20 per cent of all businesses or 10 per cent of the businesses in any industry.

Testimony on these proposals from business organizations indicated that a major complaint among small businesses "have always been ill-advised regulations which do not appear to fit into the scope of operations and a feasible method of compliance."²⁰¹ The cost of compliance with excessive or overly burdensome governmental regulations has been stated to "not only discourage formation of new small businesses but also to contribute to the cost of goods and services sold by small businesses."²⁰² On the other hand, testimony from several state agencies indicated a common concern that additional manpower would be required to perform the economic analysis and periodic review of agency rules, and thus increase the cost of government operations.²⁰³

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Currently, there is no statutory mandate requiring an agency to perform a regulatory flexibility analysis or economic analysis for any proposed rulemaking actions. However, the Governor by executive order has established a policy and procedure by which each state administrative agency is required to obtain the Governor's approval for any proposed rules, prior to the "announcement of a public hearing or the holding of public hearing" on the proposed rules.²⁰⁴ The agency proposing to adopt, amend, or repeal a rule must submit to the Governor, among other things, information relating to the effect of the proposed rule on the (1) "long and short range program and financial impact" upon the State, (2) "long and short term impacts on the public, on economic growth and the economy of the State, and on the individuals or businesses which must comply", and (3) "alternatives explored in attempting to resolve the problem or situation at hand, other than that of adopting, amending, or repealing the rules in question."²⁰⁵

After a public hearing has been held on the rulemaking proposal, the agency responsible for proposing the rule must obtain the Governor's final approval for the proposal, and inform the Governor "whether the facts and circumstances regarding the proposed adoption, amendment, or repeal of the rules have changed, compared to that information" submitted to the Governor prior to the public hearing.²⁰⁶

The requirement in section 91-3, Hawaii Revised Statutes, of gubernatorial approval for the rulemaking proposal to take effect adds a significant element of political accountability. By comparison, federal agencies do not have to obtain presidential approval of rulemaking proposals. There is, however, no express provision under the executive order or sections 91-2 and 91-3, Hawaii Revised Statutes (relating to public information, and procedure for the adoption, amendment, or repeal of rules), for public review and comment on the information submitted to the Governor concerning the anticipated impact, if any, upon affected businesses. Further, state agencies are not required to perform a periodic review of their administrative rules to determine whether the rules should be continued without change, or amended or repealed, consistent with the purposes and objectives of applicable statutes.

In summary, regulatory flexibility analyses for proposed rules which have a significant economic impact upon a substantial number of small entities, and the consideration of alternatives to the rulemaking such as differing or reporting requirements for small entities, serve to ensure that small entities are not overly burdened by government rules as well as to balance the cost of compliance with government rules between small and large firms. Yet, the added cost to state or local governments in implementing similar provisions of the RFA, e.g., initial regulatory flexibility analysis is not readily ascertainable. Moreover, since there is in place a rule analysis and review process for proposed rules of state agencies, coupled with the fact that a majority of businesses in the State can be considered small businesses, the need for a more detailed or rigorous analysis of a proposed rule's economic impact upon small businesses may not be compelling.

V. Entrepreneurial Education

The problem of defining entrepreneurial education, along with the lack of clarity or consistency in course content, the use of untrained or disinterested faculty, or both, and the lack of an adequate forum for research for curriculum development and course content has been stated as the four major areas of concern for those interested in developing entrepreneurship as an academic curriculum.²⁰⁷

An "entrepreneur" is defined as "one who undertakes to conduct an enterprise or business, assuming full control and risk."²⁰⁸ "Education" is defined as the "systematic development and cultivation of the natural powers, by inculcation, example, etc."²⁰⁹ Yet, a uniform definition of entrepreneurial education is not readily found. For example, to "many [people] the study of entrepreneurship is just an offshoot of small business courses; to others, it is something more; a way to integrate the functional areas of management, marketing, finance, and accounting into a strategic framework that applies during the initial states of growth of a firm."²¹⁰ Another writer suggests that entrepreneurship education should be viewed as a "career process" in which "the creation and development of one or more new enterprises is a passage, a field of pursuit, a calling, a way of life that fits the basic notion of a career."²¹¹

One solution to this definitional problem is to distinguish small business owners from entrepreneurs.²¹² A small business owner may be defined as "an individual who establishes and manages a business for the principal purpose of furthering personal goals.... The owner perceives the business as an extension of his or her personality, with family needs and desires."²¹³ An entrepreneur, on the other hand, may be defined as "an individual who establishes and manages a business for the principal purpose of profit and growth...characterized principally by innovative behavior, and employs strategic management practices in the business."²¹⁴

Tied to the definitional problem is the lack of clarity or consistency in the content of a course on entrepreneurship. The course content will often vary depending upon the instructors "personal preference as to definition and scope" as evidenced by the fact that some entrepreneurial courses resemble small business courses (managing and operating a small business) while others "stress practical application at the expense of conceptual development."²¹⁵ However, by using a working definition of small business owners and entrepreneurs, as noted above, Sexton and Bowman, *supra* at 21 (see footnote 207 for citation to article), suggest that the trend for entrepreneurial courses "will be towards a planning/future/orientation profit motive approach."

Entrepreneurial education courses and curricula should be designed to address the particular target group or groups of entrepreneurial needs as well as the personal characteristics of entrepreneurs. A fairly recent study on the education of entrepreneurs found that:²¹⁶

- (1) Small business owners and managers who are either starting a business or operating an ongoing business "need information on

services available and the laws within which they must operate as well as technical skills and advice and encouragement";

- (2) Government policy makers, and advisors such as certified public accountants and bankers "need a conceptual framework for understanding problems facing the small firm, analytical skills to judge the viability of the entrepreneurial effort, and counseling and administrative skills"; and
- (3) College or university students "need, in addition to course work in the technical areas of business, courses specifically aimed at the peculiarities of new ventures and/or small business operations."

Further, through a study of 401 Baylor University undergraduate students majoring in entrepreneurship, business, and nonbusiness programs a profile of the entrepreneurship student was developed, showing that entrepreneurial students are "independent individuals who dislike restraining, restriction, and the routine. They are capable of original thought, especially under conditions of ambiguity and uncertainty. Many of them need to develop better communication skills and to become more aware of how others perceive their behavior."²¹⁷

Sexton and Bowman, supra at 30, suggest that a course in entrepreneurship should be "constructive and pose problems requiring novel solutions under conditions of ambiguity and risk" with a "frustration factor (in the form of inadequate data availability)" included in the course as a "barrier to the successful completion of a class project."

Currently, it is estimated that there are 350 colleges and universities offering entrepreneurial courses.²¹⁸ Perhaps a more revealing indication of the status of entrepreneurial education at the post-secondary education level is a recent survey of 100 college business schools throughout the United States, which found that of the responding 76 schools:²¹⁹

- (1) 70 were engaged in some type of entrepreneurial education, research, or service;
- (2) 36 schools offered graduate level courses in entrepreneurship of which 31 schools required a practicum of their students; and
- (3) 52 schools offered undergraduate courses in entrepreneurship of which 42 schools required a practicum of their students.

In general, the authors of the survey found that each school offered one general course designed to focus upon the development of a new business, covering topics such as basic planning, market analysis, and venture capital, and that students often engaged in a consulting experience with a floundering small business, typically through a Small Business Institute.²²⁰

An example of an innovative entrepreneurial educational program is the Center for Entrepreneurship at Wichita State University.²²¹ The curriculum for entrepreneurial studies is designed to promote among the students and business community an awareness and knowledge of the opportunities for

entrepreneurship. It includes exploring the role and environment of the entrepreneur as well as the life cycle of a business from start-up, development or growth stage, and maturity stage. The entrepreneurship curricula include courses for undergraduate and graduate studies such as introduction to entrepreneurship, technical entrepreneurship, and organizational innovation in entrepreneurship. (See Appendix I for listing and description of the entrepreneurial courses.)

A notable program of the Center for Entrepreneurship is the special three-week workshop "Entrepreneurship: Your Future in Business". The workshop is designed to provide a view of the American business system through the "eyes" of the entrepreneurs, and to provide information to budding entrepreneurs in assisting them in starting and successfully operating a business.²²² Instruction consists of a mix of guest speakers who are prominent entrepreneurs, formal instruction by faculty, and a textbook and selected topical readings.²²³

In Hawaii, there are at least four institutions of higher education that provide some type of entrepreneurial education courses or program, or both. The Entrepreneurial Studies Program at Hawaii Pacific College (HPC), a private four-year coeducational institution located in downtown Honolulu, is a major within the Bachelor of Science in Business Administration degree program.²²⁴ The Entrepreneurial Studies Program targets for enrollment students or returning adults, or mid-level career individuals who are interested in the area of small business ventures or small business management. The degree program requires 124 semester credits of which 23 semester credits must be entrepreneurial studies program course work. The entrepreneurial studies program includes courses on subjects such as personal finance, small business management, contemporary entrepreneurship, franchising, a small business consulting seminar, and marketing strategies. The entrepreneurial studies student is also required to obtain a practical and pertinent work experience through internship positions that may be sponsored by private sector individuals.

According to HPC, private sector participation in its Entrepreneurial Studies Program has been in the areas of cooperation in curriculum development, sponsorship of student internship positions, as well as private sector individuals serving as guest speakers and adjunct professors.

The College of Business Administration (CBA), University of Hawaii, has a policy to encourage small business development and entrepreneurship development is a high priority for the CBA.²²⁵ The Pacific Business Center Program²²⁶ within the College of Business Administration at the University of Hawaii--Manoa Campus, is designed to provide management and technical assistance services, consultations, and research services to businesspersons in Hawaii, the American territories of American Samoa and Guam, and the Commonwealth of Northern Mariana Islands. Business graduate students, in addition to university faculty, are available to work with groups to provide assistance in various specialized areas ranging from business communications to strategic planning. The CBA is considering proposing, subject to its external review, the establishment of an Entrepreneurial Development Institute (EDI) as a self-sustaining not-for-profit center that would be integrated with the curriculum and courses of the CBA.²²⁷ Basically, according to the CBA, the EDI would receive income from work provided to businesses such as

business plan preparation and marketing research. According to the CBA, an entrepreneurial curriculum would need to be developed as an alternative to, as pointed out by students and the local business community, the traditional business curriculum which tends to prepare students for middle management positions in large firms.

The Kapiolani Community College (KCC) has recently established a Business Assistance Center (BAC)²²⁸ at KCC's Diamond Head Campus for the purpose of providing educational programs and support services to existing businesses and potential entrepreneurs. The \$49,000 initial funding for the BAC was derived from federal vocational funding with matching state grants.²²⁹ The BAC's "major focus is on its commitment to human resource development" through the delivery of short-term, noncredit courses and workshops in the areas of business, communications, computers, international business relations, and office automation.²³⁰ According to KCC, for the fall 1987 semester, the BAC will offer courses on subjects such as records management, business writing, doing business with the Japanese, office automation, and personnel management. Course fees range from \$20 to \$70 per course. The BAC uses professionals in the community to teach a course in their area of expertise. Instructors are paid at an hourly rate, depending upon the instructors' level of expertise and the uniqueness of the subject matter. The BAC also plans to offer a series of business start-up courses beginning in February 1988. The courses include subjects such as starting a business, pricing a business, business evaluation, and state and federal labor and tax laws affecting the small business entrepreneur.

Windward Community College located in Kaneohe, Oahu, offers a credit course in starting a business which focuses upon the development of a one-year business plan.²³¹ The course activities include selecting a business, devising a marketing system, financial planning, and budgeting decisions for start-up capital and financial analysis and financial statements, and selecting a legal form of business.

Although a few states provide programs that expose grade school students to entrepreneurial concepts,²³² it is suggested by one writer that "experienced based educational programs that incorporate role models should be developed to foster" the psychological characteristics found in elementary school students such as "persistence, academic ability, and creativity."²³³ At least two states, Ohio and Texas, each have a program which focuses on increasing awareness of entrepreneurship for grade school teachers who then may integrate it into their curriculum. Ohio's Entrepreneurship for Kids Program, provided by the state Department of Vocational/Technical Education, is a one-day in-service course for kindergarten to high school teachers which provides general information on small businesses and learning resources to help students consider and evaluate career choices.²³⁴ In Texas, the Teacher Practicum--Entrepreneurship Awareness and Training for Public School Teachers Program provided by the University of Texas-Austin, is a six-week training session in which the teachers become part of a sponsoring company's team enabling teachers to gain firsthand experience in the operations of a corporation.²³⁵

In Hawaii, Junior Achievement of Hawaii, Inc., offers four distinct economic education programs geared for students in grades 4-12.²³⁶ Junior Achievement, a private entity, enlists the participation of local companies

which provide volunteer teaching business consultants and funding to finance the organization. Three of the programs are in-school programs and one is an afterschool program. All in-class program materials are provided at no cost to participating schools. In the afterschool program (the initial program of Junior Achievement since its beginning in Hawaii in 1957), high school students, in a 20-week period operate "mini-enterprises" in which they go through the life cycle of a business: selling the company's stock, producing and marketing products or services, preparing and issuing annual reports, and distributing dividends to investors.²³⁷

According to Junior Achievement of Hawaii, Project Business is a supplement to existing social studies curriculum at the junior high school (grades 7-9) level and is available in 30 public and private schools throughout the State. Volunteer teaching business consultants, during a semester, conduct once-a-week discussion sessions and activities on topics such as the principles of supply and demand, capital and financial institutions, and career opportunities.²³⁸ Applied Economics, another in-school program, is a one-semester credit course in economics for high school students in 12 public and private schools on Oahu, taught by a classroom economics teacher who is assisted once-a-week by a business consultant.²³⁹ According to Junior Achievement of Hawaii, the Applied Economics Program includes student texts and workbooks, teacher and consultant manuals, and audio visual and computer-based simulations. The classroom teacher and business consultant work in tandem to teach economic theories and to clarify economic concepts by providing practical experiences and software applications.

The most recent program is Basic Business. According to Junior Achievement of Hawaii, this program is designed for elementary school students (grades 4-6) and is conducted by trained high school students who introduce participants to private enterprise through four one-hour sessions which include such topics as business organization, management, production, and marketing. Students currently in the program are Girl Scouts and students from two private schools.²⁴⁰

Although the state Department of Education (DOE) "does not have a formally articulated policy specific to entrepreneurship education", the department believes that "entrepreneurial concepts can and should be infused into all vocational-technical program areas."²⁴¹ The DOE also has established working relationship with the Junior Achievement, and with business-related groups in the development of course guides for economics and consumer education.²⁴²

Programs or courses offered by the DOE that possess, to a limited extent, an indicia of entrepreneurial education, include, but are not limited to the Cooperative Distributive Education Program, the Supervised Occupational Experience Programs in agriculture, marketing and distribution, business principles and management, and business law.²⁴³

The Cooperative Distributive Education Program provides the high school student with classroom instruction, and part-time work experience in marketing and distribution. Classroom instruction focuses on developing the following:²⁴⁴ "(1) a marketing competency--selling, sales, promotion, buying, operation, market research and market management; (2) technology

competency--product or service; (3) a basic skill competency--application of communication and mathematical skills; (4) a social competency--human relationships; and (5) an economic competency--understanding the environment for the economy."

According to the DOE, the Supervised Occupational Experience Program (SOEP) in agriculture "consists of planned activities usually conducted outside the scheduled class time in which the student develops and applies agricultural knowledge and skills. The SOEP typically involves production and sale of agricultural products with appropriate record keeping."²⁴⁵

In summary, entrepreneurial education at the secondary and post-secondary levels has been and is being provided by public and private educational institutions in Hawaii as it is in other states as well. A recurring problem is one of defining entrepreneurial education or entrepreneurship. Apparently, depending upon an institution's or state's policy, a wide variety of programs and courses can be labeled as entrepreneurial. A uniform definition or a generic definition specifying the particular types of entrepreneurial subject matters would not necessarily be helpful, since the task of identifying innovative subjects relative to business development would be cumbersome, if not impractical. Perhaps, the definition of entrepreneur suggested by Sexton and Bowman, supra at 21, may serve as a useful guide for those planning to establish or expand an entrepreneurial curriculum.

The private business sector is a valuable source of experience and knowledge. Garnering the participation of trained individuals from the various fields within the business community to provide assistance in developing an entrepreneurial curriculum, or serving as instructors, or both, is beneficial and is being accomplished locally by several public and private educational institutions.

Chapter 4

PROBLEMS AND ISSUES OF SMALL BUSINESSES

I. Past Problems and Issues Concerning Small Businesses¹

Overview

In 1959, there were a total of 9,406 business establishments (single establishments, except that nonmanufacturing industries in which an employer was a group or single establishment located in the same county were considered as one reporting unit), of which 8,362 had fewer than 20 employees and 866 had 20 or more but less than 100 employees.² Of the 8,362 business establishments with fewer than 20 employees, 59 per cent or 4,795 were establishments with three or fewer employees.³

In 1960, a survey was conducted in which over 3,700 questionnaires were sent to small business owners and operators in Hawaii. The survey formed the basis of a report which discussed the problems and needs of small businesses as well as providing an overall economic picture of small businesses within the confines of the survey sample.⁴ Some of the more pressing problems faced by small businesses were:⁵

- (1) The lack of managerial skills on the part of owners and operators who possess a few business skills and, yet, undertake other parts of the business without adequate knowledge.
- (2) The lack of information regarding general business conditions and market conditions which may affect a particular business.
- (3) The difficulty in attracting investment capital, e.g., risk or venture capital and long-term loans into small businesses. Part of the difficulty in attracting investment capital is the resistance of small businesspersons to relinquish control of the business such as decision-making in the use of funds and profits as in the case of equity financing.
- (4) The high, unfavorable, and discriminatory state and federal taxes coupled with the increased complexity of laws were not only problematic, but also made it difficult for the small businessperson to understand or keep pace with the applicable laws.
- (5) The over regulation of business by government. The small businessperson also disliked government competition with business in which a government agency performs a service or produces a product.

The survey findings also indicated that the broad areas of competition from other businesses, cost control and accounting, insufficient working capital, and taxation were among the most serious problems for small businesses.⁶ In addition to the survey findings, the authors of the aforementioned report had formulated certain hypotheses on the needs of small business in the areas of general management, personal characteristics of the

owner, financing, business records, merchandising, market information, competition, labor, government, taxation, and business environment.⁷ (See Appendix J.) The survey findings and the authors' hypotheses were not incongruent to one another.

These problems and needs undoubtedly affect the survival of a business. The study identified ten broad problem areas and the most significant specific problems which contributed to the failure of a business (see also Appendix K):⁸

- (1) Personal characteristics--inappropriate experience
- (2) Records and expenses--controlling expenses, financial management
- (3) Market conditions--price competition
- (4) Merchandising--inadequate pricing and inadequate service
- (5) Financing--lack of working capital
- (6) Neglect of business--outside interests, part-time business, and lack or loss of interest
- (7) Dishonesty, fraud, or questionable practices--personal withdrawal of business funds
- (8) General management--disagreement or lack of communication among persons in management
- (9) Personnel--handling employees or maintaining good personnel relations
- (10) Market information--lack of knowledge of market or market research

The most common cause of business failure was the owner's or manager's lack of business experience. A fairly recent nationwide survey of small business owners and managers reaffirms the above and suggests improving and increasing management education as a means to reduce small business failures.⁹

From the above, it is evident the primary cause of business failures is internal and controllable by management. External causes of business failures which are beyond the control of management such as high interest rates, taxes, and governmental regulations play a less significant role in whether a business succeeds or fails.

On the other end of the spectrum, business success is a very ambiguous or amorphous term and means different things to different people. According to Winter and Scott, supra at 229, indicators of business success were growth in sales, growth in net worth, growth trends in profits and fixed assets, and the owner's pleasure or pride in work and business.

Further, several key factors for the success of small business have been identified in a recent empirical study of the perceptions of successful small business owners and managers in Montreal, Canada and several eastern states in the United States.¹⁰ Key factors identified include:¹¹

- (1) Entrepreneurial behavior which includes personal characteristics such as "intuition, extrovert, risk taking, creativity, flexibility, a sense of independence, and a high value of time";
- (2) Managerial skills which include "a niche strategy, effective management of cash flow, a simple but efficient budgetary system, pre-ownership experience, education, and a simple organization structure";
- (3) Interpersonal skills which include "a good relationship with a credit officer (banker), good customer relations, good employee relations and good interpersonal skills".

In summary, past and present internal or managerially controllable problems which contribute to the failure of a business are not dissimilar. The lack of adequate business experience remains the major or most common problem contributing to the failure of a business. Although external or managerially uncontrollable factors such as taxation, governmental regulations, and high interest rates may pose problems to small businesses, they are less significant in terms of contributing to business failures.

Recognition and utilization of the personal characteristics or attributes of successful small business owners and managers provide a valuable tool for improving the operations of a business, as well as for the development of an entrepreneurship education curriculum which is attuned to the idiosyncrasies of entrepreneurs, in general.

II. Current Problems and Issues of Interest to Small Businesses

Today, small businesses in Hawaii have organized themselves into various associations and organizations which provide its members not only an environment conducive to the sharing of information and ideas, but also a voice of advocacy within the legislative arena. This section discusses the identified issues of high priority or greatest concern to the small business community.¹²

The Governor's Small Business Advisory Committee (GSBAC) served as the primary entity from which the high priority or most important issues were identified.¹³ For purposes of this study, since a significant number of businesses are members of either one or more of the member organizations of the GSBAC (e.g., the National Federation of Independent Business (NFIB) has a local membership of nearly 7,000), the GSBAC was the most practical entity from which to ascertain the high priority problems and issues of the small business community. The GSBAC is comprised of thirteen representatives from the private sector and state executive branch, all of

whom are appointed by the Governor. A list of the current members of GSBAC is provided in Appendix L.

In general, the identified high priority or most important problems and issues for small businesses are within the areas of tort reform, workers' compensation, unemployment compensation, privatization of government services, prompt payment for government purchases of goods or services from private vendors, and mandated health care benefits.¹⁴ The specific issues within each of the above general areas are discussed in the following subsections.

A. Prompt Pay

During the 1984 regular session, the Legislature enacted Act 235, which amended section 103-10, Hawaii Revised Statutes, to require state or county agencies to pay for goods or services no earlier than 30 days except with the approval of the comptroller, but no later than 45 days following the receipt of statement or satisfactory delivery of goods or performance of services, whichever is later. Prior law allowed for a 60-day payment period. A provider of goods or services who has experienced a delay in payment from a state or county agency is entitled to 12 per cent interest on the unpaid principal balance from the paying agency commencing on the forty-fifth day following the receipt of the statement, or satisfactory delivery of goods or performance of the services, whichever is later, and ending on the date of the warrant. Act 235 also provided for certain exceptions where delay in payments were due to, e.g., a labor dispute, power or mechanical failure, acts of God, or any similar conditions beyond the control of the State or county.

Extensive testimony from various business organizations advocated the 30-day payment period for goods or services purchased by state or county agencies. A major concern of the business organizations was that late payments, particularly to small businesses, affects cash flow, e.g., the small business owner may have difficulty in paying its suppliers or in having sufficient cash reserves to pay for ordinary operating expenses. Further, small businesses usually do not have the financial resources to carry a delinquent customer account for an extended period of time.¹⁵

On the other hand, the testimony of the Department of Accounting and General Services (DAGS), stated that merely changing the payment time period from 60 to 30 days will not have any substantial effect because of the two distinct processes for state payment, i.e., individual agencies (paying agency) processing time for vouchers and DAGS processing time for review of the agency's vouchers and subsequent issuance of the warrant (check).¹⁶

The Legislature, during the 1985 regular session, through Act 281, again amended section 103-10, Hawaii Revised Statutes, by requiring state and county agencies to make payment no later than 45 days after a statement is received or satisfactory delivery of goods or services performed, whichever is later, and eliminating the 30-day payment restriction.

Testimony from various business organizations indicated that a problem had arisen under prior law in which payments could not be made prior to 30

days after receipt of statement or satisfactory delivery of goods or services performed, unless the comptroller approved the payment. In essence, providers of goods or services to state and county agencies could not be paid before 30 days even if payment would be ready to be disbursed prior to the thirtieth day.¹⁷

GSBAC's recommendation for 1988, is to require state and county agencies to pay all bills within 30 days of receipt of invoice from the provider except for certain products and industry customs, and to require automatic payment of interest penalties at a rate of interest may be equal to the provider's cost of short-term money (conformance with Model Prompt Pay Legislation).

The DAGS has commented on certain provisions of the Model Prompt Pay Legislation, indicating, in general, that the Model Prompt Pay Legislation, as written may not be suitable for implementation due to certain inappropriate provisions which would not ease the facilitation of government payment for goods or services to private providers. See Appendix M for comments of the DAGS relating to the Model Prompt Pay Legislation.

Under the federal Prompt Payment Act¹⁸ federal agencies are required to pay providers of goods or services within 30 days after receipt of a proper *invoice for the amount due if a specific date is not established by contract*. There is a 15-day grace period following the 30-day payment period within which an agency may make payment without a penalty.¹⁹

Whether or not a mandated 30-day payment period should be implemented rests upon the consideration of various factors, e.g., the cost-benefit involved, its impact upon the present system, and the capability and available resources of DAGS. A study relating to a 30-day payment period is presently being conducted by DAGS. Until such time the final report of DAGS's study is available, it would be premature to form any conclusions or recommendations.

B. Unemployment Insurance

One of GSBAC's recommendation for 1987 is to extend, for subsequent years, the adjustment in the taxable wage base from which an employer's contribution to the unemployment insurance trust fund is computed under Act 240, Session Laws of Hawaii 1987.²⁰

Under the Act, for calendar year 1988 only, the taxable wage base does not include wages paid during that calendar year which exceed the following limits, according to the ratio of the current reserve fund to the adequate reserve fund:

- (1) If the ratio is .80 or less, then wages do not include 100 per cent of the average annual wage;
- (2) If the ratio is greater than .80 but less than 1.2, then wages do not include 75 per cent of the average annual wage; or

- (3) If the ratio is 1.2 or more, then wages do not include 50 per cent of the average annual wage.

It was anticipated that the Act "will apply an additional adjustment factor to the unemployment insurance financing structure, which together with the existing fund solvency contribution rate, will more effectively respond to rapid increases in the fund balance in excess of the adequate reserve level, while ensuring that the collections are sufficient to maintain program solvency."²¹ This contribution rate adjustment was estimated to "save employers approximately \$20 million in calendar year 1988."²²

However, whether and to what extent this new formula will benefit small businesses remains to be seen. Any pertinent information regarding the effects of Act 240 will not be available until compilations can be made which will be after 1988. Thus, an extension of Act 240 would be premature until such time information is available to perform an adequate review and assessment of the effects of the Act.

GSBAC's other recommendation is to prohibit strikers from receiving unemployment compensation benefits regardless of work stoppage at the employer's establishment. Under section 383-30(4), Hawaii Revised Statutes, an individual would be disqualified from receiving unemployment benefits if the unemployment is due to a "stoppage of work, which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed."²³ Thus, before an individual is determined to be disqualified to receive unemployment compensation benefits, there must be a labor dispute and a stoppage of work.²⁴ The dispositive factor is whether there is a stoppage of work, which is a "substantial curtailment" of the business activities at the employer's establishment.²⁵ "In determining whether substantial curtailment has occurred, the test is whether a strike substantially curtails an establishment's essential function or basic business activity."²⁶

During the past five legislative sessions, there were a total of at least eighteen bills introduced relating to the denial of unemployment benefits and additional unemployment benefits for employees engaged in strikes, or to repeal the work stoppage requirement. However, none of the bills moved any further than first reading within their respective house of origin. Thus, there does not appear to have been any open legislative debate on this issue in recent years.

Proponents who favor denying strikers unemployment compensation (during the period of the strike) argue that small businesses with positive reserves, of which a majority of the employees are non-unionized, contribute to the unemployment fund from which strikers may receive compensation and thus, in essence, are subsidizing the larger businesses with negative reserves in construction, agriculture, and other cyclical industries of which a majority of employees are unionized. In short, the unemployment compensation fund should not be the source of compensation for strikers. It is suggested that all parties should be accountable for their actions, i.e., strikers should not be allowed to receive unemployment benefits, while those who are locked-out by the employer should receive them.²⁷

In Inter-Island Resorts v. Akahane, the Hawaii Supreme Court stated:²⁸

It is argued that the interpretation of "stoppage of work" as referring to the place of employment would require an employer to subsidize the employees, or former employees who are out on strike. The countervailing argument is that under this criterion, when the strikers first qualify for benefits the employer has already resumed normal operations by the hiring of permanent replacements and the strike, as an economic weapon, has lost its potency. These are arguments involving policy and properly should be addressed to the legislature rather than the courts.

Thus, whether strikers should or should not receive unemployment compensation benefits is ultimately a policy decision which must be made by the Legislature. The various proposals currently in the labor committees of both the Senate and the House of Representatives,²⁹ provide ample vehicles for open legislative debate on this issue should the Legislature decide to consider the matter.

C. Workers' Compensation

GSBAC's recommendations for 1988 are the repeal of the workers' compensation state fund, and to provide an owner-employee the option to be exempt from coverage under the workers' compensation laws.

The Hawaii workers compensation state fund (Fund), codified as chapter 386A, Hawaii Revised Statutes, was established by Act 296, Session Laws of Hawaii 1985. The purpose of the Fund "is to sell workers' compensation insurance at the lowest actuarially responsible price", and to serve as a model for and to be competitive with private workers' compensation insurance carriers.³⁰ The Legislature recognized this as an alternative system for providing workers' compensation insurance which was necessary to relieve the "insurance crises confronting employers and businesses in Hawaii brought about by skyrocketing costs of workers' compensation insurance coverage in recent years."³¹

Opponents of the Fund argue that a state-operated workers' compensation insurance fund is not needed nor will its operation be cost-effective as a means to decrease workers' compensation insurance rates. Some of the reasons advanced in opposition to the Fund are that the State does not have the necessary insurance expertise, the Fund is limited to underwriting coverage for employers within the State, and that the Fund will require substantial initial funding and operating costs.³²

The Fund is a nonprofit entity administered by a five-member board of directors, appointed by the Governor. The Fund becomes operational upon funding by special appropriation by the Legislature.³³ During the 1987 legislative session, Act 381 appropriated \$150,000 to sponsor a conference to discuss and examine appropriate methods to implement the objectives of the Fund. The Department of Labor and Industrial Relations (DLIR) was required to report the findings and recommendations of that conference to the

Legislature for the 1988 Regular Session, which will provide a basis for discussion and debate.³⁴

Generally, the workers' compensation law provide compensation to employees for work-related injuries and disease "arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment."³⁵ All employers with employees are required to provide workers' compensation coverage, except for certain services excluded from the definition of "employment" such as domestic services performed by an individual in the employ of a recipient of social service benefits; services performed by a corporate officer without wages for a corporation without employees in which the officer is at least a 25 per cent stockholder; and services performed by an individual for another person for solely personal, family, or household purposes, subject to remuneration limitations.³⁶

GSBAC's recommendation would provide another exclusion from the definition of employment under the workers' compensation laws for an owner-employee. During the 1987 Regular Session, several bills relating to exempting family members of a family-owned business or agriculture corporation from workers' compensation coverage, were introduced but not acted upon beyond first reading in their house of origin.

However, a senate bill introduced during the 1987 Regular Session provided for an exclusion from workers' compensation coverage for services performed for a corporation by an individual who is concurrently an employee of another corporation and services performed by an individual for a corporation in which the individual owns a 51 per cent interest in both corporations or the corporation, as the case may be.³⁷

Those who favor giving corporate owner-employees the option of exempting themselves from coverage under the workers' compensation laws argue that these owner-employees should be treated similarly to sole proprietors. Presently, corporate owner-employees are required to pay workers' compensation insurance premiums. It is suggested that since any claim filed by corporate owner-employees will lead to an increase in their premiums, many corporate owner-employees will not file a claim and continue to work despite an injury, and thus, not take advantage of workers' compensation benefits.³⁸ It is also suggested that the exclusion of corporate owner-employees from workers' compensation coverage will be "at a relatively minimal cost to the state."³⁹

The degree or extent of impact upon the present workers' compensation system if corporate owner-employees are excluded therefrom is currently indeterminable, according to the DLIR; however, the DLIR has expressed a concern that if an owner-employee exemption which includes the owner-employees' family is enacted, the exemption should not be optional.⁴⁰ Thus, an assessment of the impact or effects of the above exclusion should be performed prior to any action on this particular issue.

D. Tort Reform

GSBAC's recommendations for 1988 call for establishing a cap on contingency fees, a sliding scale for attorneys' fees in tort actions, and to abolish joint and several liability totally.

During the 1986 Special Session, the Legislature enacted S.B. No. S1,⁴¹ which provided various tort reform measures, of which changes were made regarding attorney's fees, and joint and several liability among joint tortfeasors. Section 671-2, Hawaii Revised Statutes, relating to attorney's contingent fees was repealed and replaced with section 607-15.5 which provided that after a judgment has been entered, attorneys' fees for both plaintiff and defendant shall be limited to a reasonable amount as approved by a court having jurisdiction of the tort action. In the case of a settlement, plaintiffs' or defendants' counsel may request that the amount of their attorney's fees be subject to court approval.

Under section 663-10.9, Hawaii Revised Statutes, joint and several liability among joint tortfeasors was partially limited. One of those limitations was that if a tortfeasor's degree of negligence is found to be less than 25 per cent under the comparative negligence law (section 663-31, Hawaii Revised Statutes) in certain cases, then the amount recoverable against that tortfeasor for noneconomic damages (e.g., pain and suffering, mental anguish, loss of consortium, loss of enjoyment of life, and disfigurement) is limited to the degree of negligence assigned.

During the past several years legislative debate on tort reform has been vigorous, and apparently will continue at that level for the next several years. For example, in 1987, several bills⁴² were introduced relating to establishing a cap or sliding scale on attorneys' fees, and to abolish several exceptions for joint and several liability under section 663-10.9, Hawaii Revised Statutes.

Those who advocate a cap or sliding scale on plaintiff's attorney's fees suggest that it would increase monetary recovery on the part of the injured client, discourage nonmeritorious claims, and lower the overall costs of the litigation.⁴³ Further, although section 607-15.5, Hawaii Revised Statutes, provides that attorneys' fees are limited to a "reasonable amount" as approved by the court, there remains a significant amount of discretion for the trial judge in determining what a "reasonable" attorneys' fee is.

On the other hand, opponents to a cap or sliding scale on attorneys' fees argue that a statutory restriction on victim's attorneys' fees would discourage meritorious claims "because many victims with legitimate claims would be unable to afford to pursue their legal rights."⁴⁴ With regard to the reasonableness of attorneys' fees, it has been suggested that the experienced trial judge in personal litigation is in the best position to determine the fairness or reasonableness of the attorneys' fee, on a case by case basis.⁴⁵

The major objection against the doctrine of joint and several liability stems from its effect upon one joint tortfeasor who may be required to pay the total amount or disproportionately large share of a judgment if one or more of the other joint tortfeasors are insolvent. This can result in a "grossly unfair allocation of payments among defendants that bear no

resemblance to their actual fault."⁴⁶ It is advocated that a defendant pay only the amount which is in direct proportion to the degree of negligence assigned.

On the other hand, to totally abolish joint and several liability among joint tortfeasors would deny the victim-plaintiff recovery of just compensation for injuries sustained or death as a result of the actions of joint tortfeasors who are insolvent.

It is evident that the concept of fairness is the significant factor which forms the basis for the arguments for or against these two tort reform issues, if not for tort reform in general. What is fair to one person may not be fair to another. In essence, it is a policy question which should be answered only after careful consideration of each proposal. There have been numerous variations of tort reform measures considered by the Legislature in recent years. Act 2 of the First Special Session of Hawaii 1986 was a compromise package of tort reform measures. Whether tort reform is the answer for reducing or curbing liability insurance costs remains to be seen, in terms of practicable application of tort reform measures. To that end it is significant to note that the Insurance Commissioner is required by Act 2 to prepare and submit to the Legislature in 1988 and 1989, closed case reports containing an evaluation of the operations and effects of the Act. To make revisions to a complex law before meaningful and relevant data are available for consideration would be premature.

E. Privatization

Privatization means a conversion of the provision of government services to the private sector through various methods, one of which is by contracting out to private businesses certain services performed by the state government. The need to privatize government services have been centered on anticipated reductions in federal aid to the states. Presently, a majority of the states are contracting with businesses for services such as the delivery of various direct social services, operation and maintenance of sewage and water treatment facilities, building maintenance services, and the operation of some juvenile institutions.⁴⁷ In at least one state, Florida, the estimated annual savings from privatization of public services range from \$500 million to \$1.2 billion.⁴⁸

Some of the arguments against privatization are that public employees will be displaced, wage standards need to be set at the prevailing rate (using public employees' wages), and that it will result in an overall decline of government services, e.g., inefficiency of service providers.⁴⁹ However, according to Morgan, *supra* at 44, in Los Angeles where "over a thousand county employee positions were privatized most of the employees were shifted to the private sector or absorbed by other levels of government." Further, it is suggested that the concern over wage standards and the overall decline in government can be resolved through open competition in the marketplace and through contractual covenants which would ensure the provision of quality services to the public.⁵⁰

If privatization is a means of reducing government expenditures while maintaining an adequate level of services to the public, and which will not

displace government employees, then further review and study on the feasibility of privatization of government services is warranted. GSBAC's recommendation on establishing a task force of qualified individuals to investigate and recommend policies on privatization is a viable mechanism for examining the feasibility of privatization of state and local government services.⁵¹

Since GSBAC is comprised of local business representatives with knowledge about privatization issues it would be an appropriate body upon which the task force could be built. Additional members of the task force should include other government officials representing the University of Hawaii, Department of Education, the Judiciary, the Department of Budget and Finance, legislators, and appropriate union representatives.

In examining the feasibility of privatization, the task force should investigate and review, at a minimum, the following:

- (1) Identify and assess the present extent of contracting out government services to the private sector;
- (2) Identify and assess other governmental services which may be privatized at a cost savings without decreasing the quality of existing services, and which will not displace government employees;
- (3) Review state laws and rules which might inhibit privatization as well as to ensure that public interests are protected if privatization is expanded; and
- (4) Review other privatization options such as franchise agreements and divestiture of government responsibility for a service or services.

The report of the task force will serve as an effective tool for government decision makers in determining whether privatization is a viable and effective method in reducing government expenditures without jeopardizing the quality of services to the public and displacing government employees.

Chapter 5

FINDINGS AND RECOMMENDATIONS

A. Small Business Incubators

Findings. The business incubator concept is a valuable tool for assisting small, young businesses to grow and develop in an environment conducive to the sharing of ideas and reduction of operating and overhead costs. Further, the incubator concept can be and has been adapted to meet the particular needs of businesses or a community. Experience from other state or municipally sponsored business incubator programs has shown that many businesses previously housed in incubator facilities during their early stages of development have matured into successful enterprises providing new employment opportunities in a particular locality.

The planned Manoa Innovation Center is not the product of a state incubator program. Rather, it is designed as a high technology incubator facility proposed by the state High Technology Development Corporation, funded thus far entirely by state funds. Thus, the Bureau finds that the establishment of an incubator program which is designed to allow flexibility in the structure and operation of the facility, as well as requiring the participation of private sector funds for the facility, is an effective economic development vehicle which, in addition to benefitting targeted businesses will foster public-private partnerships which are essential to the expansion of business development incentives.

Recommendations. The Bureau recommends the Legislature consider:

- (1) Establishing a state business incubator program with a primary purpose to create quality jobs and diversify the economy, and which should include, at a minimum:
 - (A) A requirement for a feasibility study to assess the demand and market for an incubator facility within the proposed community or locality;
 - (B) A financial matching requirement at least equal to the amount of funds provided under the program for the establishment and operation of an incubator facility;
 - (C) Establishment of an incubator revolving loan fund which may be similar to the Hawaii Capital Loan Program, chapter 210, Hawaii Revised Statutes; and
 - (D) Allowance for flexibility in the operation of an incubator facility. (See Appendix N for selected state incubator programs); or, if the Legislature chooses not to establish a state business incubator program;
- (2) Encouraging the counties to promote the development of private incubator facilities through the use of federal funds such as Community Development Block Grant (CDBG) funds and employment

training assistance funds and tax credits, such as the Job Training Partnership Act and the Targeted Jobs Tax Credit, and proposing areas for designation as enterprise zones under chapter 209E, Hawaii Revised Statutes.

B. Capital Formation

1. Venture Capital

Findings. In general, small businesses, especially new start-up businesses find it difficult to secure venture capital during their early stages of development. Traditional venture capitalists usually seek high growth, high technology oriented firms that will develop and produce a product that will sustain itself in the marketplace for a period of time sufficient to receive a return on their investment comparable to the risks involved. As noted previously in Chapter 3, part B, one of the reasons for the inability of small businesses in the early stages of development to obtain financing for that period is the unwillingness of traditional venture capitalists to make investments in those firms. In providing small businesses greater access to venture capital, at least 28 states have initiated various types of venture capital programs using differing approaches such as (1) the creation of a public sector fund, (2) the creation of a state-initiated private fund, (3) the use of tax incentives to induce private sector investments in a venture capital fund, (4) the use of a quasi-public entity to operate a program, and (5) the use of public pension fund investments.

The provision of venture capital to small businesses during their early stages of development is important to enable them to grow and mature into viable enterprises, which in turn will provide greater employment opportunities for citizens of, and increasing revenues to, the State. Not all small businesses will succeed nor generate new jobs. The marketplace will be the final arbiter as to who succeeds or fails. Nonetheless, state assistance in providing small businesses access to venture capital will open the door for these businesses to enter the marketplace, who otherwise might be shut out.

The Department of Business and Economic Development (DBED) is presently conducting a study pursuant to Senate Concurrent Resolution No. 166, S.D. 1, adopted during the Regular Session of 1987 on the issues and problems surrounding the formation and availability of venture capital in Hawaii. Without a clear picture of the specific needs in Hawaii, a proposal cannot be tailored to provide a workable solution. In any case, the venture capital programs described in this report provide a basis for discussion in examining the types of programs appropriate for the State to implement if there is a substantial need on the part of Hawaii businesses for venture capital, particularly in early stage financing.

The Bureau finds, however, with due consideration to the extent of services currently provided by DBED's Small Business Information Service, that the venture capital information and referral services should be structured in a more formal manner to provide greater accountability for and confidentiality of business proposals for referrals to venture capitalists.

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Recommendations

- (1) If the Legislature determines that venture capital information activities of the Small Business Information Service within the Department of Business and Economic Development should be expanded, we recommend that section 211E-3(b), Hawaii Revised Statutes, be replaced with the following statutory provisions:

(b) The department of business and economic development in establishing a venture capital information center shall diligently endeavor to operate the center as a clearinghouse for information on venture capital investment opportunities. The center, among other services necessary to accomplish the purposes of this section, shall:

- (1) Solicit, compile, profile, and maintain current information describing opportunities for venture capital investment in new or expanding businesses;
- (2) Identify active formal and informal investors and profile their distinguishing investment objectives;
- (3) Provide a timely, confidential, and objective referral system serving investors, inventors, and developers;
- (4) Maintain statistics on the operation of the center including but not limited to the number of profiled investors, number of inventors, and developers, the number of referrals, and number of referrals resulting in investment; and
- (5) Advertise and promote the center.

The center in making referrals shall not engage in any advisory or evaluative function. The department may charge a reasonable referral fee for services rendered to investors, inventors, and developers.

- (2) Amend chapter 211E, Hawaii Revised Statutes, by adding a new section to be appropriately designated and to read as follows:

§211E- Reports. The department of business and economic development shall report on the venture capital information center's activities, as of December 31 each year of operations under this chapter to the governor, the president of the senate, and the speaker of the house of representatives, on the progress made under this chapter including any compilations of data required to be maintained under section 211E-3. These reports shall be

submitted not later than February 1 immediately following the period covered by the report.

2. Public Pension Funds

Findings. The use of public pension funds for investment in venture capital vehicles, particularly in providing capital for the early stage development of small businesses is an attractive, but not necessarily a conservative, type of investment made by administrators of those funds. As noted previously, investment in companies in the seed capital and start-up phases of development, are generally considered too risky for commercial lending institutions or unattractive to traditional venture capitalists.

In some states that have authorized public pension fund investments in venture capital vehicles, the approach taken is through passive investments or indirect investments as a limited partner in venture capital enterprises. As a limited partner, the role of the public pension fund is limited to providing a certain amount of capital and in sharing in the risk of any loss. The venture capital enterprise's investment portfolio would be managed by the general partner or partners. Since the risk of loss and exposure to liability is limited, the passive or indirect investment approach appears to be more appropriate than direct investments for using public pension funds for investment in venture capital vehicles.

Recommendations. If the Legislature determines that public pension funds should be used for venture capital investments in early stage financing for small businesses which have the potential for generating new jobs and diversifying the economy, the Bureau recommends that section 88-119, Hawaii Revised Statutes, be amended to allow the Employees' Retirement System of the State of Hawaii to pool up to one per cent of the total amount of the system's funds with other investors in professionally managed venture capital limited partnerships. The term "venture capital limited partnership" may be defined as a business engaged in investments for the development and commercialization of any product, device, or process having the potential to create new jobs and diversifying the economy of the State or to increase the availability of venture capital in the State. In amending section 88-119, the prudent person standard should be included in the statutory language.

3. Loan Programs

Findings. Six state loan programs in Hawaii now provide financial assistance to targeted businesses such as small businesses and businesses or individuals engaged in innovative product development, or to businesses within certain industries such as agriculture, aquaculture, and the fishing industry. The U.S. Small Business Administration administers several loan programs targeted for small and minority businesses, and the Small Business Innovative Research (SBIR) program for research and development projects. In addition, the State may issue special purpose revenue bonds (SPRBs) to raise money for eligible manufacturing, industrial, and processing enterprises, and the state High Technology Development Corporation may issue special purpose revenue bonds for the financing of industrial parks for projects by a group of enterprises engaged in industrial, processing, or

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manufacturing enterprises for high technology (emerging industries which are technology intensive) under similar restrictions, limitations, and conditions as the SPRB program.

Thus, a panoply of public loan programs or public sources of capital are available to businesspersons who meet the eligibility requirements for a particular program. Further, section 211E-2(b)(5), Hawaii Revised Statutes, part of the Hawaii Innovation Development Program, apparently provides a loan vehicle for the furnishing of risk capital to individuals developing a new product or invention. The Department of Business and Economic Development is required to "prescribe the forms of financial participation the department may engage in as a result of making a loan under [chapter 211E], including but not limited to warrants, options, or royalties on sales or earnings."

In view of the foregoing, no formal action is recommended in this area, at this time.

C. Business Development Services and Assistance

1. Small Business Development Centers

Findings. Small business development centers are a positive economic development tool which a state government can use to assist small businesses to grow and expand in becoming positive contributors to the State's economy. As noted previously, one of the major causes for business failures, particularly for small businesses, is the lack of managerial skills and business experience. Although several programs in the public and private sectors provide business development services, they are located primarily on the island of Oahu. Further, the types of services provided, and, in some instances, the target group for assistance, are generally diversified among the service providers. A centralized location serving as the catalyst for the dissemination of business information and providing for or serving as the link for, managerial and technical assistance in business operations as well as product and service development and marketing, will enhance the growth of small businesses and possibly stimulate innovative product development.

Recommendations. If the Legislature determines that a central location is needed for facilitating the delivery of business development services to small businesses throughout the State, the Bureau recommends that the Legislature establish a small business development center through the United States Small Business Administration. The Center may be administered independently by the Department of Business and Economic Development or jointly with the University of Hawaii. The program should be structured in a manner consistent with applicable federal requirements as to be eligible for federal matching grants. The enabling legislation should also allow satellite small business development centers to be located at universities and community colleges on the different islands, and in business incubators if a business incubator program is established.

One type of service which could be provided through a development center or independently, and therefore should be explored is legal assistance through some type of clinical program at the University of Hawaii, William S. Richardson School of Law. A cooperative agreement between the small

business development center and the law school could be negotiated to provide nonlitigation legal assistance by law school students to businesses under faculty supervision. This type of arrangement has the potential to provide a valuable service to the small business community, and practical legal experience and training for the participating law students.

2. One-Stop Permitting Center

Findings. A one-stop business permitting center is a vehicle by which the State can assist not only small businesses, but businesses in general. Currently, the Small Business Information Service (SBIS) of the Department of Business and Economic Development provides, to some extent, permit and licensing information and referral services.

A central location serving as a clearinghouse for information and forms necessary to obtain the permits and licenses required for a particular business would facilitate and expedite the process and may eliminate duplication of services by state agencies. The Center could also provide information on the availability of government financial assistance programs.

Recommendations. If the Legislature determines, with due consideration to the permit information and referral services currently provided by the SBIS, that a one-stop business permitting center serves a public interest by providing comprehensive business permit information to the public, reducing regulatory costs by coordinating, simplifying, and expediting the state business permit procedures, the Bureau recommends that a one-stop business permitting center be established within the Business and Industry Development Division of the Department of Business and Economic Development, in the following manner:

- (1) Transfer the functions, personnel, equipment, supplies, publications, records, and any other materials or property of the SBIS to the one-stop permitting center (Center).
- (2) The Center's functions as a clearinghouse should include at a minimum:
 - (a) Establishment of a business permit information service to coordinate, simplify, and expedite permit application procedures for persons engaged or intending to engage in business or commercial activities, except licenses for professions and occupations, and environmental permits.
 - (b) Researching, compiling, and maintaining a collection of state and federal laws and rules and county ordinances applicable to the various business or commercial activities for which permits are required;
 - (c) Seeking and encouraging the cooperation of appropriate federal and county agencies in implementing the Center's functions and responsibilities; and

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- (d) Promoting and publicizing the Center's services to the public and providing information on its services for inclusion in any public informational material or permits provided by a state agency.
- (3) The Center's direct services should include at a minimum:
 - (a) The identification of the types of permits and licenses that may be required for an applicant's business or commercial activities; and
 - (b) Dissemination, upon request, of information on applicable state, federal, or county registration, permitting, licensing, and approval requirements, and application forms for identified permits.
- (4) The Center's services should be clearly stated as facilitative to protect the State from potential liability for any consequences resulting from the failure to obtain a required permit, and that any information provided by the Center or any omission of information by the Center does not relieve any person from or constitute a waiver of the obligation to secure a required permit from the appropriate regulatory agencies.
- (5) State agencies should be required to cooperate with the Center's staff by designating a staff person to coordinate the department's efforts in providing information to the Center on the agency's permit process, and to the extent possible, providing a prompt response to a request for expediting the permit application and a request for information.
- (6) The term "permit" should be defined as any license, certificate, registration, or any other form of authorization required by a federal, state, or county department or agency to engage in any business or commercial activity, except vocational and professional occupational licenses, certificates, or registration, and environmental permits.
- (7) The Center should be required to study within the second year of operation the feasibility of providing a master or multiple permit application form.

Further, if the Legislature determines that a one-stop permitting center should be established and that venture capital information services should be expanded, the functions, responsibilities, and activities of the venture capital information center should be consolidated within the one-stop permitting center.

3. Small Business Ombudsman

Findings. With due consideration to the extent of the services performed by the Office of the Ombudsman in investigating complaints of businesses against administrative acts of state or county agencies, there is no necessity to create a separate small business ombudsman to perform that function. A designated business advocate is a more suitable and appropriate role for the government to assist small businesses. There are at least two vehicles that can be used to implement the services of a business advocate. The business advocate can be: (1) designated to serve a small business advisory council; or (2) designated within each state regulatory agency. The latter will alleviate problems associated with interpreting a particular agency's rules, and perhaps facilitate the resolution of specific problems or complaints in a more expeditious manner than someone unfamiliar with the agency's rules and procedures. As to the former, the establishment of a small business advisory council and the designation of a business advocate to serve the council in implementing its tasks can bring greater visibility to the State in terms of promoting economic development by, to some extent, focusing all of the activities in a single entity.

Recommendations. If the Legislature determines that it is in the best interest of the State to establish or create a business advocate within state government, the Bureau recommends that a small business advisory council be established and that a business advocate position be established within the Business and Industry Development Division of the Department of Business and Economic Development to facilitate the accomplishment of the council's tasks as well as to assist small business owners in addressing and resolving their concerns relative to applicable laws or rules affecting small businesses. In the alternative, the Bureau recommends that each state agency should be required to designate a staff person within the agency as the business advocate to assist business owners in resolving misunderstandings, confusion, or problems relative to any activity for which the agency is authorized to oversee or to any activity initiated by an agency, consistent with applicable laws.

4. Regulatory Flexibility

Findings. The major provisions of the federal Regulatory Flexibility Act (RFA) serve to accomplish specific objectives of the RFA, such as, the consideration of regulatory alternatives that may lead to less burdensome regulations, an analysis of rules with significant economic impacts on a substantial number of small entities, and an expanded level of small entity participation in the rulemaking process.

Hawaii currently has an administrative process providing for an analysis of the long- and short-term impacts of proposed state administrative rules upon the State's financial resources, the general public, economic growth and the economy of the State, as well as upon individuals and businesses affected by a proposed rule. The enforcement mechanism for the analyses is primarily through the Governor's review and approval of the proposed rules, both prior to and subsequent to a public hearing on those rules. However, because the review has only recently been extended to include impacts upon business, the

FINDINGS AND RECOMMENDATIONS

scope and extent of the analysis required of the state agencies proposing the rule changes and the review of those analyses is presently unclear.

Public participation in the rulemaking process is provided under Hawaii's Administrative Procedure Act (HAPA), chapter 91, Hawaii Revised Statutes. Generally, under the HAPA, an agency is required to give at least twenty days' notice for a public hearing on a rulemaking proposal. Interested persons are afforded the opportunity to comment orally or in writing on the proposal. The public notice for the proposal must contain a statement of the substance of the proposal and the date, time, and place of the public hearing. However, there is no express provision for the inclusion of the agency's findings of its analysis of the impacts of the proposal upon individuals and businesses in the public notice. Thus, interested persons are not made aware of and are not afforded the opportunity to review and comment on the agencies' findings concerning the potential impacts of the proposed rule change.

After reviewing the responses from the several state agencies that were identified as having the most contacts with businesses, concerning rules or policies specifically for small businesses, the Bureau finds that current agency rules or policies with the exception of the rules for the Hawaii Capital Loan Program apply to businesses generally, rather than specifically to small businesses.

The Bureau also finds that periodic review by the agencies of their rules will help to ensure that government rules are not obsolete, inappropriate, or unduly burdensome for the regulated business, individuals, or entities, consistent with applicable statutes.

Recommendations

- (1) With due consideration to the extent and scope of regulatory analysis and review currently in place under the Governor's Administrative Directive No. 87-2, the Bureau recommends that the Legislature examine the need for a more detailed or rigorous analysis of the impact of rulemaking proposals upon affected businesses.
- (2) If the Legislature determines that a full economic analysis of rules having significant impacts on a substantial number of businesses; the periodic review of administrative rules; and an expanded role for small business participation in the rulemaking process, serves the public interest, the Bureau recommends that the Legislature should consider enacting in some form, a regulatory flexibility act similar to the federal RFA; provided that a task force consisting of representatives from the business community and appropriate government officials be established to examine, among other things, the cost effectiveness of performing a full economic analysis of proposed rules having a significant impact upon a substantial number of businesses, as well as the need for legislatively mandating regulatory flexibility analysis of proposed administrative rules.

- (3) Alternatively, if the Legislature determines that the current state regulatory analysis and review process is adequate, the Bureau recommends that:
- (A) Section 91-3(1), Hawaii Revised Statutes, be amended to require a statement summarizing the agency's findings of the impacts of the rulemaking proposal upon businesses, if any, be included in the notice of public hearing; and
 - (B) Section 91-4.1, Hawaii Revised Statutes, be amended by requiring each state agency to review its rules every five years for the purpose of determining whether those rules should be continued without change or should be amended or repealed consistent with the stated objectives of applicable statutes, and report its findings to the Governor before the end of the year in which the review was conducted.

5. Entrepreneurial Education

Findings. The participation of the private business sector is essential in developing curricula for entrepreneurial programs or courses in public secondary and post-secondary education. Existing local public and private educational institutions have utilized the expertise of individuals within the private business sector in either curriculum development or as instructors. However, the term "entrepreneurial education" needs to be examined by educators and public officials to develop a working definition of that term or to develop policy guidelines that will provide the basis for a coordinated entrepreneurial educational curricula.

Recommendations. If the Legislature determines that a coordinated effort between educators from public and private educational institutions and public officials is essential in developing an entrepreneurial curriculum within the public secondary schools and post-secondary educational institutions, the Bureau recommends that the Legislature establish a task force comprised of private and public educators or administrators and public officials (1) to examine entrepreneurial educational curricula developed by other educational institutions, (2) to develop a working definition of entrepreneurial education, and (3) to propose a model entrepreneurial educational curriculum for secondary schools and post-secondary educational institutions.

D. Current Problems and Issues of Small Businesses

In part B, Chapter 4 of this report, the several identified current high priority or most important issues of small businesses in Hawaii were reviewed and discussed. Basically, those issues (proposals) pertain to subject matters applicable to businesses in general. After our review, in general, we find that immediate conclusions or recommendations for most of the proposals could not be developed at the present time due to the need for additional information to assess potential impacts on affected governmental entities and individuals. The discussion on each of the proposals in Chapter 4, part B, describes the basis for our general findings.

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However, for the proposal regarding the privatization of government services, the Bureau finds that if privatization is to be regarded as a viable means of reducing government expenditures while maintaining an adequate level of services to the public and not simultaneously displacing government employees, then further review on the feasibility of privatization of government services is warranted. The Bureau, therefore recommends that the Legislature establish a task force comprised of representatives from the business community, state government officials, legislators, and public employee organizations to examine the feasibility of privatizing certain government services.

The Bureau further recommends that the task force, in examining the feasibility of privatization, at a minimum, undertake the following:

- (1) Identify and assess the present extent of contracting out government services to the private sector, including purchases of services under chapter 42, Hawaii Revised Statutes;
- (2) Identify and assess other government services which may be privatized at a cost savings without decreasing the quality of existing services, and which will not displace government employees;
- (3) Review state laws and rules which might inhibit privatization as well as to ensure that public interests are protected if privatization is expanded; and
- (4) Identify and review other appropriate privatization options.

Footnotes

CHAPTER 1

1. Senate Concurrent Resolution No. 102, S.D. 1, Fourteenth Legislature, 1987, State of Hawaii; and House Resolution No. 260, H.D. 1, Fourteenth Legislature, 1987, State of Hawaii.
2. House Resolution No. 260, H.D. 1, in addition to requesting the Bureau to consult with various government agencies and business organizations, requested the utilization of an ad hoc citizens' panel to analyze the underlying reasons for Hawaii's perceived "anti-business climate".
3. Ibid.
4. The Governor's Committee on Doing Business in Hawaii, Report to the Governor on Hawaii's Strengths and Weaknesses as a Business Location, January, 1984.
5. Inquiries were sent to the following organizations:
 - (1) The Governor's Small Business Advisory Committee;
 - (2) National Federation of Independent Business;
 - (3) Small Business Hawaii;
 - (4) Hawaii Business League;
 - (5) The Chamber of Commerce of Hawaii;
 - (6) The Honolulu Minority Business Development Center; and
 - (7) The Building Industry Association of Hawaii.

All but two of the organizations responded to our inquiries. Small Business Hawaii and the Building Industry Association of Hawaii did not respond even though subsequent telephone contact and a second letter were made and sent. A letter was also received from the Kaneohe Business Group.

6. Inquiries were sent to the following: (1) Department of Business and Economic Development; (2) Department of Commerce and Consumer Affairs; (3) Department of Taxation; (4) University of Hawaii; (5) Department of Labor and Industrial Relations; (6) Department of Health; (7) Department of Human Services; (8) Department of Agriculture; (9) Department of Education; (10) the Mayor's or Managing Directors' office of each of the four counties; and (11) the United States Small Business Administration, Honolulu District Office, and its regional office.
7. Of the 49 states to which inquiries were sent, 34 states responded. Materials provided by the responding agencies included state statutes or legislation, or both, catalogs of business services, and other informational materials.

CHAPTER 2

1. Hawaii, Department of Planning and Economic Development, Quarterly Statistical and Economic Report, 1st. Quarter, 1987 (Honolulu, DPED, 1987), p. 5; hereafter Quarterly Economic Report 1987.
2. Ibid., pp. 5, 44.
3. Ibid., p. 26.
4. Ibid.
5. Ibid.
6. Ibid., p. 30.
7. Monthly unemployment rate figures for the months of July, August, and September 1987 were 4.0, 3.7, and 3.8, respectively, according to the Department of Labor and Industrial Relations.
8. Quarterly Economic Report 1987, p. 34.
9. Ibid., p. 6.
10. Ibid.

11. Ibid.
12. Data excerpted and compiled from Quarterly Economic Report, Table 4-2, p. 27. Data exclude government employees, agriculture and nonagriculture self-employed, and jobs involved in labor disputes. Percentages may not add up to 100 per cent due to rounding of figures.
13. "Paying for Paradise", Hawaii Business, October, 1987, p. 22.
14. Ibid.
15. Hawaii, Department of Planning and Economic Development, Planning Division, Hawaii State Plan Revisions, Preliminary Findings and Recommendations (Honolulu: 1985), pp IV-6.
16. Ibid., p. IV-4.
17. Ibid., p. IV-7.
18. Ibid.
19. 1985 The State of Small Business: A Report of the President (Washington: Government Printing Office, 1986), pp. 11-12; hereafter 1985 State of Small Business.
20. Hawaii, Department of Planning and Economic Development, The State of Hawaii Data Book, 1986 (Honolulu: 1986), Table 439, p. 419.
21. U.S. Department of Commerce, Bureau of the Census, County Business Patterns, 1985, Hawaii (Honolulu: 1986), p. 11.
22. New business incorporations and business failures are not the major nor most accurate tool in measuring business or employment growth. Not all businesses choose a corporate legal form nor do all businesses cease to operate due to bankruptcy or liquidation. However, for purposes of an overall view towards examining the impact of small businesses on the State's economy it is an useful tool.
23. U.S. Department of Commerce, Bureau of Census, Statistical Abstract of the United States, 1987, 107th ed. (Washington, D.C.: 1986), p. 509.
24. Ibid.
25. 1985 State of Small Business, p. 11.
26. The strategic marketing plan is to include action plans for the implementation and management as well as quantifiable measures of effectiveness which include projected number of new businesses, revenues generated by the targeted industry, number of potential employees for a targeted industry, and business incentives and developmental programs to attract new businesses to the State, etc.
27. Edward F. Morrison, "Small Business A Strategic Perspective", Commentary (Spring 1985), p. 7.
28. Richard R. Carroll, "The Small Business Incubator as a Regional Economic Development Tool: Concept and Practice", The Northeast Journal of Business & Economics, Vol. 12, No. 2 (Spring/Summer 1986), p. 26. See U.S. Congress, Joint Economic Committee, The Role of Small Business Enterprise in Economic Development, 97th Cong., 1st Sess., 1981, pp. 13-14.
29. Catherine Armington and Majorie Odle, "Small Business--How Many Jobs", The Brookings Review (Winter, 1982), pp. 14-15. (The authors explored a microeconomic method to distinguish establishments from branches or subsidiaries of larger firms which would be counted as an establishment under the macro economic approach.) Compare David Birch, "Generating New Jobs: Are Government Incentives Effective", 1979, reprinted in Expanding the Opportunity to Produce: Revitalizing the American Economy through New Enterprise Development (Washington, D.C.: Corporation for Enterprise Development, 1981), pp. 11-12. (Birch states that small firms with fewer than 20 employees generated two-thirds of all new jobs in the United States, and small independent firms generated 52 per cent of the total.)
30. David Birch, "Generating New Jobs: Are Government Incentives Effective", pp. 12, 14.
31. Morrison, p. 11.
32. Ibid., p. 7.
33. Ibid., p. 9.
34. Ibid., pp. 8-11.
35. Birch, p. 15; and Armington and Odle, p. 17.
36. Samuel I. Doctors and Richard E. Wokutch, "The Importance of State and Local Government Assistance to Small Business Development", Public Administration Quarterly (Spring, 1983), pp. 80-81.

37. Birch, p. 16.

38. Ibid.

39. See "Report to Governor on Hawaii's Strengths and Weaknesses as a Business Location", Governor's Committee on Doing Business in Hawaii, January 24, 1984; hereafter Report to the Governor on Hawaii's Strengths and Weaknesses as a Business Location. Currently, some members of the business community now feel that Hawaii's business image is improving and that they are getting a "fair shake" from the present state administration. The Honolulu Star-Bulletin, October 20, 1987, pp. D-1, D-4.

It is also interesting to note that in a recent survey of approximately 350 ocean science and technology companies conducted by Arthur Young & Co., "The Ocean: A resource for Economic Development in Hawaii", the responding companies for purposes of ranking in order of importance factors they consider in location decisions ranked business climate fourth, after availability of skilled labor and wage rates, community characteristics, and proximity to markets. Pacific Business News, August 3, 1987, p. A-34.

40. Report to the Governor on Hawaii's Strengths and Weaknesses as a Business Location, p. 14.

41. Ibid. See 46 U.S.C. §883 under chapter 24, Merchant Marine Act, 1920 (also known as the Jones Act, 41 Stat. 999 (1920)), relating to transportation of merchandise between points in the United States in other than American-built or rebuilt and documented vessels. Section 883 reads in pertinent part:

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported), between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons

who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title...

42. Report to the Governor on Hawaii's Strengths and Weaknesses in Business Location, p. 14.

43. Armington and Odle, p. 17.

44. David W. Rassmussen, and others, The Cost Effectiveness of Economic Development Incentives, (Washington, D.C.: The Urban Institute, 1982). (The authors provide an interesting method for cost-effective evaluations of various state government economic development incentive programs.)

CHAPTER 3

1. Gary R. Bettger, "Business Incubators: A New Tool for State Economic Development", State Legislative Report, Vol. 12, No. 2 (Denver: The National Conference of State Legislatures, March 1987), p. 1.

2. Richard R. Carroll, "The Small Business Incubator as a Regional Economic Development Tool: Concept and Practice", The Northeast Journal of Business & Economics, Vol. 12, No. 2 (Spring/Summer 1986), pp 25-26.

3. Ibid., p. 26; Bettger p. 1; David Allen, Small Business Incubators and Enterprise Development (Pennsylvania State University, Institute of Public Administration, 1985), pp. 2-3.

4. Carroll, p. 25.

5. Allen, pp. 7-11.

6. Mihailo Temali and Candace Campbell, Business Incubator Profiles: A National Survey (Minneapolis: Hubert H. Humphrey Institute, 1984), p. 3.

7. Allen, pp. 13-14; Carroll, p. 30; David N. Allen and Syeder Rahman, "Small Business Incubators: A Positive Environment for Entrepreneurship", Journal of Small Business Management, July 1985, p. 13.

8. Allen and Rahman, p. 1.

9. David N. Allen and Janet Hendrickson-Smith, Planning and Implementing Small Business Incubators and Enterprise Support Networks (Pennsylvania State University,

- Institute of Public Administration, 1985), p. 1.
10. U.S., Small Business Administration, Office of the Chief Counsel for Advocacy, States, Localities and Small Business: Exploring New Horizons (Washington, D.C.: U.S. Small Business Administration, February, 1987), p. 24; Wisconsin Department of Development, Division of Research and Analysis, Bureau of Research, Models of State Entrepreneurial Development Programs, April, 1987, TR 87-1, pp. 58-59.
 11. Because the incubator concept is relatively new, i.e., incubators have been in a development stage for the past decade and the length of time required for an incubator to mature, an accurate assessment of the effectiveness of the incubator industry is currently not available. An indicator of effectiveness of an incubator is the survival rate of tenant firms. But note that incubator entry policies may have an impact on the survival rate if tenant firms are those that would survive without the sheltered environment of an incubator. See Allen and Hendrickson-Smith, pp. 1-2; and "Business Incubators--Matching Jobs, Economic Growth", American City & County, May 1985, pp. 85-86.
 12. Allen and Hendrickson-Smith, *supra*; Illinois Department of Commerce and Community Affairs, Guidelines for Determining the Feasibility of a Small Business Incubator, November 1985; Illinois Department of Commerce and Community Affairs, Starting a Small Business Incubator: A Handbook for Sponsors and Developers, 1985; Illinois Department of Commerce and Community Affairs, Managing a Small Business Incubator, 1986; Mia Purcell, The Industrial Incubator (Washington, D.C.: National Council for Urban Economic Development, February 1984), No. 27; U.S. Small Business Administration, Office of Private Sector Initiatives, Incubators for Small Business (Washington, D.C.: U.S. Small Business Administration, 1986); and U.S. Small Business Administration, Office of Private Sector Initiatives, Small Business Incubators: A Handbook on Start-up and Management (Washington, D.C.: U.S. Small Business Administration, 1986).
 13. For details of the feasibility analysis, see "Manoa Innovation Center, A Small Business Incubator Feasibility Analysis and Development Plan", prepared by Pryde, Roberts and Company (Washington, D.C.) for the High Technology Development Corporation of Hawaii, 1986.
 14. The High Technology Development Corporation (HTDC) was established by the Legislature in 1983, now codified under chapter 206M, Hawaii Rev. Stat. The HTDC is a public body corporate and politic and an instrumentality and agency of the State. For administrative purposes it is placed within the Department of Business and Economic Development. The HTDC was established to, among other things, assist "high technology enterprises in the construction and equipping of facilities". 1983 Haw. Sess. Laws, Act 152, §1.
 15. During the 1987 regular session, the Legislature appropriated a total of \$402,000 for the plans and design of the Manoa Innovation Center. The Manoa Innovation Center is not a formal state program. It is a proposed incubator facility to be administered by the HTDC.
 16. Pacific Business News, October 19, 1987, p. 8; and letter from Kay Yamada, Project Development Manager, HTDC, January 7, 1988.
 17. Information obtained from materials provided by St. Paul 503 Development Company.
 18. The remaining 40,000 square feet is controlled by the property owner in which he provides low-cost space to tenants in his portion of the building.
 19. Information obtained from materials provided by the Department of Commerce, Commonwealth of Pennsylvania.
 20. 1984 Pa. Laws, Act 111 (P.L. 555), as amended by 1986 Pa. Laws, Act 101 (P.L. 1193).
 21. The Ben Franklin Partnership contains, in addition to the small business incubator program, other programs designed to promote advanced technology, e.g., Challenge Grant Program for Technological Innovation which provides funds for establishing advanced technology centers, as well as to provide resources for education and training, and entrepreneurial development services.
 22. Information obtained from materials provided by the Thomas Alva Edison Program, Ohio Department of Development.
 23. The Edison Program also administers the Edison Seed Development Fund and Edison Technology Centers. The Edison Program is administratively under the Ohio Department

- of Development. The Industrial Technology and Enterprise Advisory Board, a bipartisan independent body comprised of seven representatives from the universities and business community, and two state legislators advise the director of the Incubator Program on awarding the challenge grants.
24. A brief description of the support services provided by the six incubators is provided below:
 - (1) Akron-Summit Industrial Incubator is designed to function as on-the-job training for area entrepreneurs and provides a variety of business support services to polymer-related and other technology driven small businesses;
 - (2) Business Technology Center, Columbus, offers business support services to entrepreneurial tenants as well as a formal network of consultants to act as an information clearinghouse and referral service;
 - (3) Center for Venture Development, Cleveland, provides hands-on business assistance, entrepreneurial education and training, and access to the community's technical, marketing, and financial resources;
 - (4) Office of Entrepreneurial Advocacy, Youngstown, provides technical assistance, business services and facilities to entrepreneurs in high technology fields;
 - (5) Miami Valley Regional Business Incubator, Youngstown, offers professional office and support services, management and technical assistance, and access to a seed capital fund; and
 - (6) Springfield Technology Center, Springfield, provides management counseling and strategic business planning and the opportunity to obtain seed and venture capital from a local funding source.
 25. Temali and Campbell, p. 85.
 26. Telephone interview with Bob Yelton, a general partner of Bolyston Development Group which is the owner of the building, November 25, 1987.
 27. Ibid.
 28. Information on the Science Park incubator was obtained from Temali and Campbell, p. 97.
 29. City & State, August 1987, p. 6.
 30. Information on Control Data Corporation's BTCs was obtained from Temali and Campbell, pp. 104-107.
 31. According to the Montana Legislative Council, House Bill 889 which establishes the Agricultural Business Incubator Program, was enacted during the 1987 legislative session.
 32. The Agricultural Development Council is comprised of seven members representing the agricultural community and state government officials, all of whom are appointed by the governor.
 33. This part focuses upon several selected states' financial incentives for business development. The Department of Business and Economic Development has been requested by the Legislature to examine the problems and issues surrounding the formation and availability of capital, e.g., venture, equity, and loan in Hawaii, and to conduct a study on Business and Industrial Development Corporations (BIDCOS) which are a new type of private financial institutions designed to fill the financing gap for small and medium size businesses that are too risky for banks, and unattractive to venture capitalists. See Senate Concurrent Resolution No. 166, S.D. 1, and House Resolution No. 435, Fourteenth Legislature, 1987, State of Hawaii.
- Thus, in view of the above two resolutions, to avoid duplication of effort, the review of capital formation in this study focuses on a description of programs in certain other states, and programs and services already in place in this State.
34. Allan M. Disman, "State Capital Formation and Small Business Needs", Government Finance, December 1983, p. 13.
 35. Wisconsin, Department of Development, Division of Research and Analysis, Bureau of Research, Models of State Entrepreneurial Development Programs, Technical Report TR-87-1, April 1987, p. 88; hereafter Models of State Entrepreneurial Development.
 36. Gary Bettger, "State Venture Capital Initiative", State Legislative Report, Vol. II, No. 2 (Denver: The National

- Conference of State Legislatures, February 1986), p. 2.
37. 1985 State of Small Business: A Report of the President, (Washington, D.C.: U.S. Government Printing Office, 1986), p. 48. See Models of State Entrepreneurial Development ("Friends, relatives, and personal savings are one of the largest sources of seed capital financing."), p. 88.
 38. U.S., Small Business Administration, Office of Advocacy, State Activities in Capital Formation: Venture Capital, Working Capital, and Public Pension Fund Investments (Washington, D.C.: 1985), p. 3; hereafter SBA, State Activities in Capital Formation.
 39. Ibid., p. 6.
 40. Taylor, Equity Financing for the Small Business: A Layman's Guide, 20 S. Texas L.J. 253, 258 (1979).
 41. P.L 94-305; 15 U.S.C. §681 et seq.
 42. For example, Pacific Venture Capital requires a strong indication of market demand for the product, a combined financial source of capital sufficient to finance the operations at a profitable level, and the return on their investment and the risks involved must be consistent.
 43. Hawaii Rev. Stat., sec. 211E-3.
 44. Interview with Dennis Ling, Coordinator, Small Business Information Service, October 15, 1987.
 45. Ibid.
 46. Ibid.
 47. Models of Entrepreneurial Development, pp. 88-89.
 48. Information obtained from materials provided by Pennsylvania Department of Commerce.
 49. Also, Louisiana has a Seed Capital Matching Grant Program (La. Rev. Stat. Ann. §1132.40 et seq.) which provides matching funds of up to \$250,000 to approved local development corporations and economic development corporations. The matching requirement is 3:1, i.e., for each state dollar there must be three dollars from private sources. The approved corporations may provide equity financing to Louisiana small businesses including those in business incubators, which are in need of financial assistance during the early stages of growth.
 50. Information obtained from materials provided by Michigan Strategic Fund.
 51. As of October 1987 two of the four private seed capital funds were operational. A brief description of the four seed capital funds is provided below:
 - (1) The Enterprise Development Fund expects to invest in companies involved in industrial technology, biomedical and biotechnology, computers, and communications.
 - (2) The Onset Seed Fund expects to specialize in industrial technology, with special emphasis on creating companies which will provide products to major automotive companies and suppliers for use in their manufacturing processes.
 - (3) The Diamond Venture Associates expects to focus upon manufacturing or product-oriented businesses, and to a lesser extent on service opportunities.
 - (4) The Demery Seed Capital Fund expects to focus on product-oriented businesses, e.g., food processing, but will consider service opportunities.
 52. MD. Fin. Inst. Code Ann. sec. 13-235 et seq.
 53. Information obtained from materials provided by the Connecticut Office of Legislative Research.
 54. Figures are for the established business and the start-up program. The start-up program is similar to the established business program, from which financing is available for new business. SBA, State Activities in Capital Formation, pp. 56-58.
 55. According to the Kansas Legislative Research Department, Senate Bill 69-1987 was enacted by the state legislature.
 56. See also N.D. Cent. Code, sec. 10-30.1-04 et seq. which provides similar income tax credits; and N.C. Gen. Stat. sec. 105-163.091 et seq. as amended by Senate Bill 217 enacted in 1987, provides corporate and individual income tax credits up to 25 per cent of the amount invested in a qualified investment organization,

- qualified business venture, or qualified grantee business, as the case may be.
57. Public funds may be invested in a local seed capital pool fund provided private cash investments are matched at least \$2 for each dollar of public funds. Public funds have a senior position to any private cash investment and may reserve a lower rate of return than private cash investors.
 58. House Bills 143 and 176, 1987, Washington.
 59. Derek Hansen, "Revitalizing the American Economy through Entrepreneurial Expansion--A Program Policy Guideline (Part Two)", in Expanding the Opportunity to Produce: Revitalizing the American Economy through New Enterprise Development, ed. Robert Friedman and William Schweke (Washington, D.C.: Corp. for Enterprise Development, 1981), pp. 221-222.
 60. Ibid., p. 222.
 61. Ibid., pp. 222-223.
 62. The Wall Street Journal, August 24, 1987, p. 17.
 63. Ibid.
 64. "Banks Provide Capital for Maine's Businesses", American City and County, May 1985, p. 86.
 65. Ibid.
 66. Ibid.
 67. N.D. Cent. Code, sec. 10-30.2-02. Also, a six-member committee comprised of representatives of the business sector and the economic development commission is authorized as initial incorporators to establish the fund.
 68. N.D. Cent. Code, sec. 10-30.2-11.
 69. Ibid.
 70. N.D. Cent. Code, sec. 10-30.2-112.
 71. N.D. Cent. Code, sec. 10-30.2-13.
 72. SBA, Activities in Capital Formation, p. 29.
 73. Gina Mitchell, Social Investing of Public Pension Funds, (Washington, D.C.: National Conference of State Legislatures, 1986), p. 2.
 74. SBA, Activities in Capital Formation, p. 29.
 75. Bettger, p. 6.
 76. SBA, Activities in Capital Formation, p. 78.
 77. Ibid.
 78. Ibid.
 79. Ibid., p. 35.
 80. Ibid.
 81. Ibid.
 82. Mitchell, p. 3.
 83. Under section 88-119(9), Hawaii Revised Statutes, total book value of investments in improved or productive real property is limited to five per cent of the total book value of all investments in the system. Similarly, section 88-119(10) limits the total book value of investments in securities to ten per cent of the total book value of investments in the system.

Further, the 1986 amendments to section 88-119(10) (1986 Haw. Sess. Laws, Act 71) indicates a legislative intent to expand the permitted investments in securities to include securities defined in section 485-1, Hawaii Revised Statutes, and commodity stock or contracts. See House Standing Committee Report No. 804 on Senate Bill No. 52, Thirteenth Legislature, 1986, State of Hawaii.
 84. The prudent person standard, although not articulated by the Hawaii appellate courts for purposes of section 88-119, Hawaii Revised Statutes, it has been discussed relative to investments by trustees of trust companies (section 406-22, Hawaii Revised Statutes) in Matter of Estate of Dwight, 67 Haw. 126, 681 P.2d 563 (1984); and under ERISA in Marshall v. Glass and Metal Assn., 507 F. Supp. 378 (D. Haw. 1980).
 85. Bettger, p. 6.
 86. Connecticut, Office of Legislative Research, State Pension Funds for Small Business Venture Capital, 84-R-0687, July 9, 1984, p. 2.
 87. Bettger, p. 7 (citation omitted).
 88. House Bill No. 954, Senate Bill Nos. 673, 777, and 799, Thirteenth Legislature, 1985, State of Hawaii. House Bill Nos.

- 1758, 2162, and 2167 and Senate Bill No. 1509, Fourteenth Legislature, 1986, State of Hawaii.
89. Senate Bill No. 1509, as amended, Fourteenth Legislature, 1986, State of Hawaii. Although Senate Bill No. 1509 did not provide for a definition of "venture capital investment business", a similar proposal, Senate Bill No. 799 (1985), defined it as "a business for the development or exploitation of any commodity, service, product, device, technique, or process which is or may be exploitable commercially, except "pure research" activities.
- No objections to the intent of Senate Bill No. 799 or 1509 were voiced by the Employees Retirement System or the Department of Planning and Economic Development. See Testimony of Stanley Siu, Secretary of the ERS, on Senate Bill Nos. 1509 and 799 before the Senate Committee on Labor and Employment, February 8, 1986 and February 21, 1985, respectively; Testimony of Kent Keith, Director, DPED, on Senate Bill Nos. 1509 and 799, before the same committee on the same dates as above. (Testimony from the above agencies submitted at that time may not necessarily reflect the position of the present state administration.)
90. Telephone interview with David Shimabukuro, Assistant Administrator, the Employees' Retirement System of the State of Hawaii, December 3, 1987.
 91. Originally created under Title II of Act of July 30, 1953, c.282, 67 Stat. 232, and designated as the "Small Business Act of 1953". Subsequent amendments to that Act, designated it as the "Small Business Act" now codified as 15 U.S.C., §631 et seq.
 92. 15 U.S.C. §631(a) (1976).
 93. 15 U.S.C. §632(a)(1) (1987 Supp.).
 94. Small Business Size Regulations, 13 C.F.R. §§121.1-121.13 (1986).
 95. 15 U.S.C. §636(a) (1987 Supp.).
 96. Interview with Ivan Hankins, Assistant District Director for Finance and Investment, SBA Honolulu District Office, October 16, 1987, and information provided by the SBA Honolulu District Office.
 97. Ibid.
 98. Ibid.
 99. Ibid.
 100. Pacific Business News, July 27, 1987, p. 1.
 101. Information provided by the SBA Honolulu District Office.
 102. Ibid.
 103. Under the ERLC, interest rates are negotiated in the same manner as for other SBA guaranty loans. Guaranty fees payable to the SBA (e.g., a fee of one-fourth of one per cent of the guaranteed portion of the loan for maturity of twelve months or less) are paid by the lender, which may be charged to the borrower following SBA approval of the ERLC loan. In addition to normal fees permitted to be assessed on all SBA loans, the lender may charge the borrower a commitment fee equal to one-fourth of one per cent of the loan amount. Collateral including appropriate personal guarantees is required.
 104. 15 U.S.C. §638. The Act is effective until October 1, 1993.
 105. U.S. Small Business Administration, "Small Business Innovation Research (SBIR) Program", Fact Sheet No. 52, February 1987.
 106. U.S. General Accounting Office, Effectiveness of Small Business Innovation Research Program Procedures (Washington: 1987), p. 12.
 107. Ibid., p. 30.
 108. Ibid., p. 11. The twelve federal agencies include the Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Interior, Department of Transportation, the Environmental Protection Agency, National Aeronautics and Space Administration, National Science Foundation, and the Nuclear Regulatory Commission. Presently, there are eleven agencies participating, all of whom are the same as above with the exception of the Department of Interior.
 109. The Wall Street Journal, October 5, 1987, p. 27.
 110. Ibid.
 111. Creating an Environment for Economic Growth and Diversification, Proceedings--Governor's Symposium on High Technology

- and Economic Development, 1985 (Honolulu: High Technology Development Corporation, 1986), pp. 74-76.
112. For purposes of this report, the Disaster Commercial and Personal Loan Program will not be discussed, as it is geared toward providing assistance to victims of disasters rather than capital for businesses. Further, the following discussion is not an assessment of the effectiveness of the loan programs. Rather it is a description of the respective loan programs as well as their loan activities.
 113. Hawaii Rev. Stat., ch. 210.
 114. Hawaii Rev. Stat., sec. 210-6.
 115. Haw. Admin. Rules, sec. 15-2-2 (Department of Planning and Economic Development). See also, Hawaii Rev. Stat., sec. 210-1.
 116. Hawaii Rev. Stat., sec. 210-6, as amended by 1987 Hawaii Sess. Laws, Act 243.
 117. Haw. Admin. Rules, sec. 15-2-9 (Department of Planning and Economic Development).
 118. Ibid., sec. 15-2-5.
 119. Ibid., sec. 15-2-8.
 120. Annual Report, Five State Loan Programs, Department of Planning and Economic Development, Business and Industry Development Division (Honolulu: 1986), p. 5; hereafter Five State Loan Programs.
 121. Hawaii Rev. Stat., ch. 211E.
 122. 1987 Hawaii Sess. Laws, Act 242, amended the title of the program from Hawaii Invention Development Program to the Hawaii Innovation Development Program and made substantive changes that are discussed infra. The Act also appropriated \$500,000 for fiscal year 1987-1988 to be deposited in the program fund.
 123. Hawaii Rev. Stat., sec. 211E-1, defines "product" as "any product, device, technique or process, which is or may be exploitable commercially" (e.g., it has "advanced beyond the theoretical stage and are readily capable of being, or have been reduced to practice"). "Innovation" is defined as "any new process or technique for which a patent has been granted; or in which the opinion of the advisory committee, the chance of obtaining a patent thereon is favorable."
 124. Hawaii Rev. Stat., secs. 211E-1 and 211E-2(b)(5).
 125. Telephone interview with Tom Smyth, Division Head, Business and Industry Development Division of the Department of Business and Economic Development, October 16, 1987.
 126. Haw. Admin. Rules, chap. 15-5 (Department of Planning and Economic Development).
 127. 1987 Haw. Sess. Laws, Act 242, amended Hawaii Rev. Stat., sec. 211E-1, by adding the definition of inventor to mean "any resident taxpayer subject to the jurisdiction of the laws of the State of Hawaii who develops an innovation."
 128. Five State Loan Programs, p. 20.
 129. The Large Fishing Vessel Loan Program is governed by secs. 189-21 to 189-26, Hawaii Revised Statutes. The Small Fishing Vessel Loan Program is governed by secs. 189-41 to 189-46, Hawaii Revised Statutes.
 130. Haw. Admin. Rules, sec. 15-3-3(3) (Department of Planning and Economic Development).
 131. Five State Loan Programs, p. 10.
 132. Ibid., p. 13.
 133. Ibid., pp. 10 and 14; see The Honolulu Star Bulletin & Advertiser, September 20, 1987, pp. A-1 and A-4.
 134. Hawaii Rev. Stat., ch. 155.
 135. For a discussion of other available sources for agricultural credit, see John M. Halloran and others, Sources of Agricultural Credit in Hawaii (Honolulu: 1986).
 136. Hawaii Rev. Stat., secs. 155-3 to 155-14.
 137. Under sec. 155-15, Hawaii Revised Statutes, the Department of Agriculture is authorized to make low-interest loans to independent sugar growers. However, due to the restricted applicability of the loan assistance, this particular subject is not discussed.
 138. Hawaii Rev. Stat., ch. 219.
 139. Ibid., sec. 219-2.
 140. Ibid., secs. 219-5 through 219-8.
 141. Hawaii, Department of Agriculture, Report to the Thirteenth Legislature, 1986

Regular Session--Review of the Financial Assistance for Aquaculture Programs (unpublished, 1985), p. 5.

142. See chap. 39A, pts. III, IV, V, Hawaii Rev. Stat.

(Note: The State High Technology Development Corporation, with the approval of the governor, may issue bonds for each single project or industrial park or multi-project program which has been authorized by and found to be in the public interest by the Legislature. Sec. 206M-9, Hawaii Rev. Stat.)
143. See Article VII, sections 12 and 13, Hawaii State Constitution; and secs. 39A-81, 39A-121, and 39A-161, Hawaii Rev. Stat.
144. Hawaii Rev. Stat., secs. 39A-84, 39A-124, and 39A-164.
145. Hawaii Rev. Stat., sec. 39A-90, 39A-130, and 39A-17. See Haw. Admin. Rules secs. 6-10-10, 6-12-10, and 6-13-10 (Department of Budget and Finance).
146. Information provided by the Department of Budget and Finance.
147. 15 U.S.C. §648.
148. Information obtained from "Report of a University Study Group on its Review of the North Carolina Small Business and Technology Development Center", April 1987, provided by North Carolina Legislative Services Office.
149. Information obtained from materials provided by the Kansas Legislative Research Department.
150. 1987 Wash. Laws, ch. 348.
151. Or. Rev. Stat., secs. 341.785 et seq., as amended.
152. Susan C. Awe, "The Wisconsin Small Business Development Center Information Service--A Model", Special Libraries, vol. 77, No. 3, Summer 1986, pp. 152-165. See also California, Department of Economic and Business Development, Plan for the California Small Business Development Center (Sacramento: 1983). (A conceptual multi-year plan for development and implementation of the California SBDC.)
153. Ibid., p. 153.
154. Ibid., p. 156.
155. Information obtained from materials provided by the SBA, Honolulu District Office.
156. Information obtained from materials provided by the Department of Business and Economic Development. Further, in 1986 the Legislature appropriated \$88,664 for fiscal year 1986-1987 for the SBIS. 1986 Haw. Sess. Laws, Act 346, section 12A. No appropriation was made for fiscal year 1987-1988.
157. In 1984, a report prepared by the firm of Arthur Young and Co. on the conceptual design for a small business information service identified five functions which the SBIS could perform, i.e., maintain a network of public and private sector contracts; provide business assistance information such as cost of doing business in Hawaii, commercial real estate information, government procurement activities, venture capital information; conduct original research; serve as an information referral or clearinghouse; and assist other divisions and branches within the department by developing a computerized index of existing primary data sources. Conceptual Design and Organization Plan for the Small Business Information Service, prepared by Arthur Young and Co. for the Department of Planning and Economic Development (Honolulu: 1984), pp. 3-8.
158. Pacific Business News, November 2, 1987, p. A 23.
159. "Testing the Marketplace", Hawaii Business, August 1987, pp. 133-134.
160. Information obtained from interview with Thomas S. "Tookie" Evans, Vice-President Business Services, The Chamber of Commerce of Hawaii, October 5, 1987.
161. Interview with Richard Waidzunus, Deputy Director, HMBDC, October 7, 1987.
162. See The Honolulu Star Bulletin, November 9, 1987, p. A-5.
163. Telephone interviews with Rick Kennedy, HETADI, August 27, 1987 and December 9, 1987.
164. Information on the business assistance project obtained from materials provided by Alu Like, and from telephone conversation with Karl Udarbe, Economic Development Specialist, Alu Like, January 13, 1988.

165. Hawaii does not have a formal system currently in place for business permits and licenses. However, a system for expediting permits relating to the protection, conservation, or use of the natural resources of land, air, or water in the State, and film production permits has been established by the legislature. See Session Laws of Hawaii 1985, Act 237 (Permit Process Facilitation Act), as amended by Session Laws of Hawaii 1987, Act 87; and Session Laws of Hawaii 1987, Act 357 (providing for a consolidated film permit processing procedure).

166. 1986 Conn. Act 86-329 (Reg. Sess.).

167. 1983 Ill. Laws, Act 1341.

168. Wis. Stat., sec. 560.41, et seq.

169. 1987 N.C. Sess. Laws, ch. 808.

170. In addition, under Colo. Rev. Stat., sec. 24-34-906, Colorado's Office of Regulatory Reform, in addition to providing services and performing functions in a similar fashion to Wisconsin's Permit Information Center and North Carolina's BIO, is required to develop and implement a master application form and procedure.

Under Mississippi's Permit and Licensing Procedures Act, Miss. Code Ann., secs. 254-45-1 et seq., a single or master application form is to be developed by the Mississippi Research and Development Center. Further, under the permit and licensing procedures statutory scheme, the environmental permit coordinator within the department of economic development is responsible to coordinate and implement the one-stop permitting procedure, as well as environmental matters. Each state agency is required to develop a plan for one-stop permitting to coordinate the processing and issuing of permits or licenses by the agency with other state or federal agencies which also require a permit license before the applicant may perform certain activities or receive certain benefits.

171. The American Assembly, Ombudsman for American Government?, ed. Stanley V. Anderson (Englewood Cliffs, N.J., Prentice Hall: 1968), p. 39.

172. See Ibid., pp. 39-41. For a general discussion on the role of Hawaii's Office of the Ombudsman see Report of the Ombudsman of Hawaii Fiscal Year 1984-1985 (Honolulu: 1968), pp. 1-5.

173. For example, proposed legislation (H.B. 4216, 1987) in New Jersey would establish an Office of the Ombudsman for Small Business which would perform the basic functions of a typical ombudsman.

174. Hawaii Rev. Stat., ch. 96.

175. Responses from several state executive departments (departments of commerce and consumer affairs, health, human services, business and economic development, labor and industrial relations, agriculture, and taxation) to the question whether they administer any laws, rules, policies, or guidelines applicable only to small businesses in Hawaii, generally, indicate that existing laws and rules apply to small and large businesses alike.

176. See sec. 96-8, Hawaii Revised Statutes, for the enumerated appropriate subjects for investigation. Under chapter 96, the Ombudsman may not investigate the administrative acts of the judiciary and its staff; the legislature, its committees, and its staff; an entity of the federal government; a multistate government entity; the governor and the governor's personal staff; the lieutenant governor and the lieutenant governor's personal staff; the mayors of the various counties; and the councils of the various counties. Under sec. 96-1, Hawaii Revised Statutes, an "administrative act" is defined as "any action, omission, decision, recommendation, practice, or procedure, but does not include the preparation or presentation of legislation."

177. State of Wisconsin, Department of Development 1983-1985 Biennial Report, pp. 29-30.

178. Information obtained from materials provided by the New York State Senate Research Service.

179. Fla. Stat., §288.703(6).

180. Ibid., §288-704. The Small and Minority Business Advisory Council (SMBAC) within the department of commerce is composed of 15 members appointed by the governor representing the small business and minority business sectors. In essence, the SMBAC serves a similar function as the Hawaii's Governor's Small Business Advisory Committee, which is discussed at pp. 76 and 96.

181. Ibid.

182. See footnote 13, in Chapter 4 on problems and issues of small business.

183. 5 U.S.C. §§601 et seq.
184. P.L. 96-354, §2(b) (note in 5 U.S.C. §601).
185. Ibid., §1.
186. Annual Report of the Chief Counsel for Advocacy on Implementation of the Regulatory Flexibility Act, U.S. Small Business Administration (Washington, D.C.: 1987), p. 31; hereafter Annual Report--RFA.
187. Ibid., p. 23.
188. Ibid., p. 2. See 5 U.S.C. §601(1) (definition of "rule").
189. 5 U.S.C. §605. See also Annual Report--RFA, pp. 2-3. The certification must be published in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule. The certification must explain the reasons for the certification.
190. 5 U.S.C. §603(b).
191. 5 U.S.C. §603(c).
192. 5 U.S.C. §604(a).
193. 5 U.S.C. §602.
194. 5 U.S.C. §612. The congressional committees are the committees of the judiciary, and the select committees on small business of the Senate and House of Representatives.
195. 5 U.S.C. §610(a).
196. Ibid.
197. Annual Report--RFA, p. iii.
198. Ibid., pp. 22-35.
199. There is at least one statute providing for some type of regulatory flexibility which relates to utility rates in which the Public Utilities Commission may make and amend its rules and procedures which will provide the Commission with sufficient facts to determine the reasonableness of the proposed rates of smaller utility companies with annual gross revenues of less than \$2 million "without unduly burdening the utility company and its customers". Hawaii Rev. Stat., sec. 269-16(g).
200. Senate Bill No. 2364, Eleventh Legislature, 1982, State of Hawaii, and Senate Bill No. 16, Twelfth Legislature, 1983, State of Hawaii. For both bills, "small business" was defined as a corporation, partnership, sole proprietorship, or other legal entity formed to make a profit, which is independently owned and operated from all other businesses and which has fifty or fewer employees.

Further, no similar legislation appears to have been introduced to date.
201. Testimony of Hawaii Business League on S.B. No. 2364, February 22, 1982, before the Senate Committee on Consumer Protection and Commerce.
202. Testimony of National Federation of Independent Business on S.B. No. 16, February 4, 1983, before the Senate Committee on Consumer Protection and Commerce.
203. See testimony from the departments of commerce and consumer affairs, health, and taxation. February 4, 1983 before the Senate Committee on Consumer Protection and Commerce. (Note: testimony from the above agencies submitted at that time may not necessarily reflect the position of the present state administration.)
204. Administrative Directive No. 87-2, April 1, 1987. The administrative directive's statutory reference is Hawaii Rev. Stat., sec. 91-3(c), which states in pertinent part: "The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."

Previous administrative directives requiring agencies to submit information concerning the impact of the proposed rulemaking on state finances have been in effect for nearly ten years.
205. Ibid. Although the administrative directive is not clear as to the extent of review, the Director of Finance and the Director of Business and Economic Development reviews the rulemaking proposal and related information that is submitted to the Governor.

The Department of Business and Economic Development is currently reviewing the proposed rules of other state agencies which include the impact of the proposed rule on businesses in terms of increased paperwork, increased cost to small businesses, and potential restrictions on competition. Telephone interview with Tom

Smyth, Division Head, Business and Industry Development Division, on October 16, 1987.

Research Department, Legislative Coordinating Council.

206. Ibid.
207. Donald L. Sexton and Nancy B. Bowman, "Entrepreneurship Education: Suggestions for Increasing Effectiveness", Journal of Small Business Management, April, 1984, p. 20.
208. Funk and Wagnalls Standard Dictionary, International Edition, Vol. I, 1962.
209. Ibid.
210. Sexton and Bowman, p. 18.
211. Robert Ronstadt, "The Educated Entrepreneurs: A New Era of Entrepreneurial Education is Beginning: Journal of Small Business Management, Summer, 1985, p. 12.
212. Sexton and Bowman, p. 21.
213. Ibid.
214. Ibid.
215. Ibid.
216. Carl P. Zeithamel and George H. Rice, Jr., "Entrepreneurship/Small Business Education in American Universities", Journal of Small Business Management, January, 1987, pp. 44-45 (citing S. Birley, "Education for Entrepreneurs: A UK/USA Comparative Study" presented to the Small Business Institute Directors Association, Denver, Colorado, February 1984).
217. Donald L. Sexton and Nancy Bowman Upjohn, "Evaluation of an Innovative Approach to Teaching Entrepreneurship", Journal of Small Business Management, January, 1987, p. 38.
218. Wall Street Journal, October 12, 1987, p. 25.
219. Zeithamel and Rice, pp. 45-47. See also, U.S. Small Business Administration, Office of Business Development, National Survey of Entrepreneurial Education, (3rd ed.; Washington, D.C.: 1986) (contains course descriptions and syllabi from 418 organizations including high schools, colleges, and universities).
220. Zeithamel and Rice, p. 48.
221. Information obtained from materials provided by the Kansas Legislative
222. Ibid.
223. Bryan W. Clark and others, "Do Courses in Entrepreneurship Aid in New Venture Creation?", Journal of Small Business Management, April 1984, p. 27. (The authors conducted a study of participants in the Wichita State University "Your Future in Business workshops to determine whether entrepreneurship courses have an impact on new venture creations. The authors concluded that a relationship exists between entrepreneurial education and new venture creation, i.e., the workshop attracted students with strong entrepreneurial interests, the workshop affected student attitudes toward new venture start-ups, and ventures created appeared to indicate a measurable degree of success from the volume of sales and number of jobs created.)
224. Information obtained from materials provided by Hawaii Pacific College.
225. Letter from David Bess, Dean, College of Business Administration, University of Hawaii, September 22, 1987.
226. Information obtained from materials provided by College of Business Administration, University of Hawaii.
227. Ibid.
228. Information obtained from materials provided by Kapiolani Community College. See also Pacific Business News, August 17, 1987, p. 8.
229. Ibid.
230. Ibid.
231. U.S. Small Business Administration, Office of Business Development National Survey of Entrepreneurial Education (3rd ed.; Washington, D.C.: 1986), Vol. I, pp. 201-203 (microfiche).
232. Wisconsin, Department of Development, Division of Research and Analysis Bureau of Research, Models of State Entrepreneur Development Programs (April 1987), TR-87-1, p. 71; hereafter Models of State Entrepreneurial Programs.
233. Sexton and Bowman, pp. 22-23 (citing M. Kourilsky, "Predictors of Entrepreneurship in a Simulated Economy", Journal of Creative Behavior, vol. 14, no. 3 (1980)).

234. Models of State Entrepreneur Programs, p. 79. University of Hawaii, Economic Research Center, 1963.
235. Ibid., pp. 80-81. 5. Ibid., pp. 70-73.
236. Information obtained from Junior Achievement of Hawaii. 6. Ibid., p. 304.
237. "Back to School", Hawaii Business News, October, 1986, p. 26. 7. The stated needs of small businesses, as outlined in Appendix J, were the result of the authors' research and discussions with various small businessmen, bankers, lawyers, accountants, and the staff of the Small Business Administration's Honolulu district office. Ibid., p. 75.
238. Ibid.; and information obtained from Junior Achievement Program. 8. Case studies of 55 business terminations, e.g., bankruptcy and business failure during the period 1949-1960. The businesses were categorized by major industry groups including agriculture, forestry, fisheries, contract construction, manufacturing, wholesale trade, finance, insurance, real estate, and services.
239. Ibid. 9. Robert A. Peterson, George Kozhetsky, and Nancy M. Ridgway, "Perceived Causes of Small Business Failures: A Research Note", American Journal of Small Business, (July-September, 1983), pp. 15-19.
240. Information obtained from materials provided by Junior Achievement Program. 10. A.B. Ibrahim and J. R. Goodwin, "Perceived Causes of Success in Small Business", American Journal of Small Business, VII (Fall, 1986), pp. 41-50.
241. Letter from Herman Aizawa, Assistant Superintendent, Office of Instructional Services, Department of Education, August 31, 1987. 11. Ibid., p. 46.
242. Letter from Herman Aizawa, Assistant Superintendent, Office of Instructional Services, Department of Education, September 28, 1987. 12. Although the previous section discussed internal as well as external problems and needs of small business within the context of the 1960 study, this section will discuss only the current external issues of concern to small businesses. Another study similar to that of Winter and Scott, supra, may be appropriate to examine current internal problems and needs of small business.
243. See, Hawaii, Department of Education, Office of Instructional Services, The Foundation Programs Authorized Courses and Code Numbers 1986-1988 Practical Arts and Vocational-Technical Education (1985). 13. The GSBAC is not established by law. Its formation is informal. The GSBAC was first created during the previous state administration. At the end of the previous administration that GSBAC was disbanded. The current GSBAC was then created by the present state administration. Apparently, the primary purpose of the GSBAC is to provide a forum for open communications between the small business community and state government, within which issues may be examined and legislative or administrative recommendations formulated for submittal to the Governor. See the Governor's Small Business Advisory Committee's Report to the
244. Ibid., p. L-28.
245. Letter from Herman Aizawa, Assistant Superintendent, Office of Instructional Services, Department of Education, August 31, 1987.

CHAPTER 4

1. The information in this section is presented for illustrative purposes to give the reader a general background of some of the past problems and needs of small businesses in Hawaii.
2. Robert C. Schmidt, Historical Statistics of Hawaii, the University Press of Hawaii, Honolulu, 1977, p. 566. Data exclude farm and domestic workers, government employees, self-employed, and employees on ocean-borne vessels. (Data for the years 1960 and 1961 were not available.)
3. Ibid.
4. Lothar G. Winter and Burton A. Scott, Small Business in the Hawaii Economy, University of Hawaii, Economic Research Center, 1963.

- Governor, dated January 5, 1984 and October 29, 1985. Also, interview with Ms. Bette Tatum, Chairperson of GSBAC, November 12, 1987. See also, footnote 5 under Chapter 1, for list of organizations or groups to which inquiries were sent and responses received.
14. GSBAC had recommended that the State should avoid mandating new health care benefits. In light of the enactment of Act 331 1987 Regular Session, this particular issue was not examined. Act 331 provides that before any legislative measure relating to mandating health insurance coverage for specific health services, diseases, etc., can be considered, the social and financial effects of the proposed mandated coverage must be assessed by the Legislative Auditor.
 15. Testimony from Hawaii Food and Industry Association, Hawaii Business League, The Chamber of Commerce, NFIB, on S.B. No. 20, as amended which was subsequently enacted as Act 235.
 16. Testimony from the Department of Accounting and General Services on S.B. No. 20, as amended, on February 9, 1983 and on March 29, 1983, before Senate Committee on Government Operations and County Relations, and the House Finance Committee, respectively. (This does not necessarily reflect the position of the current administration.)
 17. Testimony from Hawaii Business League, City and County of Honolulu, Sheet Metal Contractors Association, General Contractors Association of Hawaii, Construction Industry Legislative Organization, Hawaiian Dredging & Construction Company, and NFIB, on H.B. No. 824, as amended.
 18. 31 U.S.C §3901 et seq.
 19. As of October 1987, Congress was considering Senate Bill 328, Prompt Payment Act Amendments of 1987, which would reduce the 15-day grace period to seven days and then completely eliminate the grace period on October 1, 1989. Source: "The Week in Congress", Congressional Index (October 16, 1987).
 20. H.B. No. 444, Fourteenth Legislature, 1987, State of Hawaii, amending section Hawaii Rev. Stat., sec. 383-61.
 21. Senate Conference Committee Report No. 121 on House Bill 444, Fourteenth Legislature, 1987, State of Hawaii.
 22. Ibid.
 23. Hawaii Rev. Stat., sec. 385-7 provides similar requirements for additional unemployment compensation benefits.
 24. A labor dispute has been interpreted to mean "any controversy concerning wages, hours, or other terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, charging or seeking to arrange wages, hours or other terms or conditions of employment." Ahne v. Department of Labor and Industrial Relations, 53 Haw. 185, 194 (1971) (citation omitted).
 25. Inter-Island Resorts v. Akahane, 46 Haw. 140, 146 (1962).
 26. International Brotherhood of Electrical Workers v. Hawaiian Telephone Co., 68 Haw. ___, 713 P.2d 943, 952 (1986) (citation omitted).
 27. Views presented by Walter C. Decker, position paper to NFIB Guardian Advisory Council, September 21, 1987.
 28. 46 Haw. at 151.
 29. Senate Bill No. 274, 332, 1670 and 1677. House Bill No. 1307 and 1678.
 30. Hawaii Rev. Stat., sec. 386A-3.
 31. Senate Conference Committee Report No. 64 in 1985 Senate Journal, p. 897 and House Conference Committee Report No. 74 in 1985 House Journal, p. 943, on House Bill No. 463, Thirteenth Legislature, 1985, State of Hawaii.
 32. See Position Papers of Hawaii Insurers Council "Reasons Against Implementing the Workers' Compensation State Fund for Hawaii", and Walter C. Decker "Opposition of the Creation of State of Hawaii Workers' Compensation State Fund".
 33. To date, no special appropriation has been made.
 34. According to DLIR, the \$150,000 appropriated by Act 381 was not released. The University of Hawaii College of Continuing Education was able to sponsor the conference. The report of the conference, as required by Act 381 has been submitted by the University of Hawaii to the Legislature. Letter from Orlando Watanabe, Administrator, Disability Compensation Division, DLIR, January 7, 1988.

35. Hawaii Rev. Stat., sec. 386-3,
36. Hawaii Rev. Stat., sec. 386-1.
37. S.B. No. 1504, S.D. 1, passed third reading in the Senate and is presently in the House Labor Committee.
38. Karen Hanan, Windward Shiatsu Therapy Center, Inc., position paper to NFIB Guardian Advisory Council on workers' compensation.
39. Ibid.
40. Letters from Orlando Watanabe, Administrator, Disability Compensation Division, DLIR, November 18, 1987 and January 7, 1988.
41. 1986 Haw. First Special Session Laws, Act 2.
42. Senate Bills Nos. 186, 812, and 958, and House Bill Nos. 556, 1374, 1382 and 1582, Fourteenth Legislature, 1987, State of Hawaii.
43. See "Final Report to Governor George R. Ariyoshi", Advisory Committee on Insurance Capacity, February 1986, pp. 30-32; hereafter Final Report to Governor George R. Ariyoshi. See also testimony of various business organizations such as Hawaii Medical Association, The Chamber of Commerce, Healthcare Association of Hawaii, Hawaii Insurers Council, and Hawaii Independent Insurance Agents Association on Senate Bill No. 958, 1987, before the Senate Committee on Consumer Protection and Commerce, February 18, 1987.
44. Testimony of Hawaii Academy of Plaintiffs' Attorneys, Inc., on House Bill No. 1771-86, before Senate Judiciary Committee, March 25, 1986.
45. Ibid.
46. Final Report to Governor George R. Ariyoshi, p. 26.
47. "Privatization Helps States Weather Cutbacks", Fiscal Watchdog, Number 113, March 1986.
48. Kenneth W. Clarkson and Philip E. Fixler, The Role of Privatization in Florida's Growth (Executive Summary), Law & Economics Center of the University of Miami and the Local Government Center, Research Foundation.
49. Tracy A. Morgan, "Toward a State Policy on Privatization", The Privatization Review, Summer 1986, p. 44.
50. Ibid.
51. See House Bill No. 606, 1987, which provides for the creation of a temporary commission to examine government services which may be contracted out to the private sector, is presently in the House Labor Committee.

THE SENATE
FOURTEENTH LEGISLATURE, 19⁸⁷
STATE OF HAWAII

S.C.R. NO. 102
S.D. 1

SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE STATE
OF SMALL BUSINESS IN HAWAII.

WHEREAS, small business plays a dominant role in the job creation process, creating between fifty and eighty percent of all new jobs, employing one-third of the nation's work force, and comprising more than ninety percent of all businesses nationwide; and

WHEREAS, a number of important studies have shown that small business is a key element in technological innovation and the transfer of technology, which in turn are vital to increased productivity and economic growth; and

WHEREAS, Hawaii's growing population requires the creation of thousands of new jobs, most of which, according to recent research, will be provided by the small business community; and

WHEREAS, it is important, therefore, that the state's small businesses expand at an increasing rate to accommodate our population growth and remain competitive with other states, especially those developing economic opportunities throughout the Pacific Basin; and

WHEREAS, the ability of the small business sector to create and retain jobs rests largely on the soundness of managerial skills, business strategies, and financial resources; and

WHEREAS, there is a need for improved state government programs specifically aimed at encouraging the development of small business, by promoting an atmosphere conducive to their growth and removing unnecessary burdens imposed by the public sector; and

WHEREAS, public sector involvement in the formation and expansion of small businesses can act as a catalyst for the creation of new economic resources through legislation,

preventive and problem-oriented assistance, and promotional activities; now, therefore,

BE IT RESOLVED by the Senate of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, the House of Representatives concurring, that the Legislative Reference Bureau is requested to conduct a study that will identify the problems and issues of high priority for the small business community, examine these problems, and propose solutions for consideration by the Legislature; and

BE IT FURTHER RESOLVED that in conducting the study the Legislative Reference Bureau shall consult with the Department of Planning and Economic Development, the Governor's Small Business Advisory Committee, Small Business Hawaii, the National Federation of Independent Business, the Department of Education, the University of Hawaii, the Hawaii Business League, the Building Industry Association of Hawaii, the Small Business Center of the Hawaii Chamber of Commerce, the Minority Business Development Center of Honolulu, and other interested parties representing small business; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau's study consider, but not be limited to the following:

- (1) Small business incubators to encourage the development of new businesses and foster economic development by diversifying the local economic base, enhancing Hawaii's image as a center of innovation and entrepreneurship, and increasing employment opportunities and greater use of public-private partnerships;
- (2) Regulatory flexibility legislation, which requires state agencies to analyze proposed laws and regulations for their impact on small business, and allows those agencies to adjust compliance and reporting requirements, schedules, standards, and penalties according to the size and capabilities of a business;
- (3) One-stop permitting and financial assistance centers to help small business owners and prospective entrepreneurs comply with various licenses and

permits necessary to operate a business and provide referrals to businesses needing information on eligibility for public financial assistance programs;

- (4) Small business development centers to provide marketing, accounting, and economic analysis services to small businesses that would otherwise not be able to afford assistance in these areas, and more efficiently link together existing small business assistance organizations and create new types of services where they are needed;
- (5) Entrepreneurship education at the secondary and post-secondary levels utilizing the expertise of the private sector to develop appropriate curriculum;
- (6) Analysis of business incentive programs that could help stimulate small business growth; and
- (7) Identification of government policies that specifically relate to small business to include, but not be limited to, permit procedures and fees, payroll costs, tax and labor issues; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau report its findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1988; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of the Legislative Reference Bureau, the Director of Planning and Economic Development, the Superintendent of Education, the President of the University of Hawaii, the Chancellor of the Community Colleges, Small Business Hawaii, the National Federation of Independent Business, and the Chairperson of the Governor's Small Business Advisory Committee.

HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE STATE
OF SMALL BUSINESS IN HAWAII.

WHEREAS, small business plays a dominant role in the job creation process, creating between fifty and eighty percent of all new jobs, employing one-third of the nation's work force, and comprising more than ninety percent of all businesses nationwide; and

WHEREAS, a number of important studies have shown that small business is a key element in technological innovation and the transfer of technology, which in turn are vital to increased productivity and economic growth; and

WHEREAS, Hawaii's growing population requires the creation of thousands of new jobs, most of which, according to recent research, will be provided by the small business community; and

WHEREAS, it is important, therefore, that the state's small businesses expand at an increasing rate to accommodate our population growth and remain competitive with other states, especially those developing economic opportunities throughout the Pacific Basin; and

WHEREAS, the ability of the small business sector to create and retain jobs rests largely on the soundness of managerial skills, business strategies, and financial resources; and

WHEREAS, there is a need for improved state government programs specifically aimed at encouraging the development of small business, by promoting an atmosphere conducive to their growth and removing unnecessary burdens imposed by the public sector; and

WHEREAS, public sector involvement in the formation and expansion of small businesses can act as a catalyst for the

creation of new economic resources through legislation, preventive and problem-oriented assistance and promotional activities; now, therefore,

BE IT RESOLVED by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1987, that the Legislative Reference Bureau is requested to conduct a study that will examine the problems affecting small business in Hawaii and propose solutions for consideration by the Legislature; and

BE IT FURTHER RESOLVED that in conducting the study the Legislative Reference Bureau shall consult with the Department of Planning and Economic Development, the Governor's Small Business Advisory Committee, Small Business Hawaii, the National Federation of Independent Business, the Hawaii Business League, the Department of Education, the University of Hawaii, and other interested parties representing small business and shall utilize an adhoc, broad-based citizen's panel to analyze the underlying reasons for Hawaii's perceived "anti-business climate."

BE IT FURTHER RESOLVED that the Legislative Reference Bureau's study consider, but not be limited to the following:

- (1) small business incubators to encourage the development of new businesses and foster economic development by diversifying the local economic base, enhancing Hawaii's image as a center of innovation and entrepreneurship, increasing employment opportunities and greater use of public-private partnerships;
- (2) regulatory flexibility legislation, which requires state agencies to analyze proposed laws and regulations for their impact on small business, and allows those agencies to adjust compliance and reporting requirements, schedules, standards, and penalties according to the size and capabilities of a business;
- (3) one-stop permitting and financial assistance centers to help small business owners and prospective entrepreneurs to comply with various licenses and permits necessary to operate a business and provide

referrals to businesses needing information on eligibility for public financial assistance programs;

- (4) small business development centers to provide marketing, accounting, and economic analysis services to small business that would otherwise not be able to afford assistance in these areas, and more efficiently link together existing small business assistance organizations and create new types of services where they are needed;
- (5) entrepreneurship education at the secondary and post-secondary levels utilizing the expertise of the private sector to develop appropriate curricula;
- (6) analysis of business incentive programs that could help stimulate small business growth;
- (7) identification of government policies that specifically relate to small business including, but not limited to, permit procedures and fees, bond requirements, payroll costs taxes and labor issues; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau report its finding and recommendations to the Legislature twenty days before the convening of the Regular Session of 1988; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Legislative Reference Bureau, Director of Planning and Economic Development, Superintendent of Education, President of the University of Hawaii, Chancellor of the Community Colleges, Small Business Hawaii, National Federation of Independent Business and the Hawaii Business League and Chairperson of the Governor's Small Business Advisory Committee.

Appendix B

Relevant provisions of the Hawaii State Plan provide in pertinent part:

§226-6 Objectives and policies for the economy--in general. (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:

- (1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people.
- (2) A steadily growing and diversified economic base that is not overly dependent on a few industries.

(b) To achieve the general economic objectives, it shall be the policy of this State to:

- (15) Increase effective communication between the educational community and the private sector to develop relevant curricula and training programs to meet future employment needs in general, and requirements of new, potential growth industries in particular.
- (16) Foster a business climate in Hawaii--including attitudes, tax and regulatory policies, and financial and technical assistance programs--that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.

§226-10 Objective and policies for the economy--potential growth activities. (a) Planning for the State's economy with regard to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.

(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives.
- (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research.
- (8) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii.
- (9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii.

§226-103 Economic priority guidelines. (a) Priority guidelines to stimulate economic growth and encourage business expansion and development to provide needed jobs for Hawaii's people and achieve a stable and diversified economy:

- (1) Seek a variety of means to increase the availability of investment capital for new and expanding enterprises.
- (2) Encourage the expansion of technological research to assist industry development and support the development and commercialization of technological advancements.

- (3) Improve the quality, accessibility, and range of services provided by government to business, including data and reference services and assistance in complying with governmental regulations.
- (4) Seek to ensure that state business tax and labor laws and administrative policies are equitable, rational, and predictable.
- (5) Streamline the building and development permit and review process, and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where public health, safety, and welfare would not be adversely affected.
- (6) Encourage the formation of cooperatives and other favorable marketing or distribution arrangements at the regional or local level to assist Hawaii's small-scale producers, manufacturers, and distributors.
- (7) Continue to seek legislation to protect Hawaii from transportation interruptions between Hawaii and the continental United States.
- (8) Provide public incentives and encourage private initiative to develop and attract industries which promise long-term growth potentials and which have the following characteristics:
 - (A) An industry that can take advantage of Hawaii's unique location and available physical and human resources.
 - (B) A clean industry that would have minimal adverse effects on Hawaii's environment.
 - (C) An industry that is willing to hire and train Hawaii's people to meet the industry's labor needs.
 - (D) An industry that would provide reasonable income and steady employment.
- (9) Support and encourage, through educational and technical assistance programs and other means, expanded opportunities for employee ownership and participation in Hawaii business.
- (10) Enhance the quality of Hawaii's labor force and develop and maintain career opportunities for Hawaii's people through the following actions:
 - (A) Expand vocational training in diversified agriculture, aquaculture, and other areas where growth is desired and feasible.
 - (B) Encourage more effective career counseling and guidance in high schools and post-secondary institutions to inform students of present and future career opportunities.
 - (C) Allocate educational resources to career areas where high employment is expected and where growth of new industries is desired.
 - (D) Promote career opportunities in all industries for Hawaii's people by encouraging firms doing business in the State to hire residents.
 - (E) Promote greater public and private sector cooperation in determining industrial training needs and in developing relevant curricula and on-the-job training opportunities.
 - (F) Provide retraining programs and other support services to assist entry of displaced workers into alternative employment.

Appendix C

SUMMARY OF STATE INCUBATOR POLICIES							
STATE	Type of Incubator Supported	Targeted Areas or Populations	Mandated Services and Assistance	Capital Fund Linkages	Type of State Support	Level and Source of Funding	Uses of Funds
Arkansas	Technology oriented businesses	Universities with strong science and technology research; do consider local economic needs	Shared services and technical assistance including access to faculty for consulting	State seed capital fund available to tenants; local funds being developed	Direct grants	Appropriation of \$1.9 million for FY 85-86; expect another 2-year appropriation to support operating costs	Start-up costs; expect additional funds to support operations for first 1-2 years
Illinois	Any type	None	Management and financial counseling; shared support services; information exchange	Local capital funds required	Grant or low-interest loan up to \$650,000	\$1 million appropriation for FY86	Development and operation of incubator
Indiana	NA	NA	NA	NA	Grants in two stages	\$60,000 appropriation in FY85	Pre-feasibility analysis and full feasibility study
Kansas	Small industrial businesses	Areas with high unemployment rate and need for economic diversity	General requirement for technical assistance	None	Direct grant up to \$50,000	Never funded	Not specified
Louisiana	General small business	None; economic need is statewide	Financing and management assistance; shared services	Linkage with separate state seed loan fund program	Loans and loan guarantees for 50% of costs up to \$500,000	Expect \$4 million from funds received for lawsuit on offshore oil	To be determined by regulation.
Michigan	Emerging new businesses	None	Facilities manager and shared services	None required but some incubators have loan funds	Grants	Appropriation for \$250,000 in FY86	Manager's salary; revolving loan funds; architectural drawings or building rehabilitation
Mississippi	One incubator for service business	None	Contract with developer requires administrative services (accounting, computer, and secretarial)	Will use existing direct loan and loan guarantee programs	See next column	\$1 million state loan repayable over 10 years; funded by appropriation	Development costs
Missouri	Originally technology-oriented; some have expanded to include general small business	None	None	Seed capital program being established to provide \$2 million for each center	Grants	State appropriation of 1.6 million in FY86; expect another \$1.6 million for FY87	Construction and operation of incubators
North Carolina	General small business	Areas selected due to unemployment rate; need for economic diversity and local interest	Sponsor must have plan to provide management and technical assistance	None required; one incubator is working to set up local fund	Grants up to \$200,000	Appropriation of \$.6 million for FY84-85; \$.6 million appropriation for FY85 but don't expect to use it	Renovation or construction of facility; equipment; planning and management
Ohio	Technology-oriented businesses	None by statute	Must include support services; access to seed capital; and university based technology transfer and R&D assistance	None	Grants have ranged from \$200,000 to \$260,000; expect second round of grants for existing incubators	Appropriation of \$67.9 million for entire Edison Partnership Program of which incubators are one piece	Construction and operation of incubators; incubators must be self-sufficient within 5 years
Pennsylvania	General small manufacturing business and businesses related to advanced technology centers (ATCs)	Interest rate on loans set by unemployment rate in county and location in enterprise zone	Financial counseling; management and marketing assistance; physical services	State seed capital fund grants are available to local funds serving incubator tenants	Loan and loan guarantee program; direct grant program	\$17 million over 3 years for loan program from statewide economic development bond proceeds	Loans—acquisition renovation; and equipment; Grants—feasibility studies; business development services or marketing
South Carolina	General small business with regional service delivery; franchised from Control Data Corp.	None	Incubators have shared services; affiliated with seed capital fund and business services office	1 incubator has a seed capital fund; 2 others are developing funds	State provides \$50,000 start-up grant to sponsoring communities; pays contract with Control Data to set up incubators	\$50,000 per incubator from appropriation	No restrictions on use, but state encouraged use for set up of business assistance offices

Required Matches	Type of Local Sponsor	Facility Owner and Manager	State Administrative Agency	Relationship to Other Programs	Exit Policy for Tenants	Activities to Date
None	State college or university	University or affiliated non-profit owns and manages facility	Arkansas Science and Technology Authority	Broker for state financing programs; SBDCs used for management assistance	None required; advise flexible 3 year limit	2 facilities funded with \$1.1 million; expect to support one or two more
Equal match	Local government, non-profit corporation, or educational institution	Local sponsor owns and manages incubator; local advisory board	Department of Commerce and Community Affairs	None required but encouraged	3 years maximum stay	Required 30 proposals; have narrowed down to 10; expect to fund 2 or 3; 4 incubators funded through previous state community development grant program
Equal dollar match	NA	NA	Institute for New Business Ventures	NA	NA	Received 2 applications for pre-feasibility analysis; several incubator projects being developed independently of program; program to support incubator development under review
Equal local match in cash or property	Local governments or non-profit corporations	Owned by local government; managed by local non-profit	Department of Economic Development	None	2 years unless company buys facility	Legislature decided not to fund program due to private development of incubators
Equal match	For-profit and non-profit corporations or public entity	Local sponsor owns and manages facility	Small Business Development Corporation	Will work with state seed capital program	None required	No action to date; awaiting funding; expect to support 8 incubators, one in each planning district
Equal match	Local government, educational institution or community board	Sponsor manages and owns facility; community board screens tenants	Michigan Department of Commerce	Encourage use of SBDCs and technology transfer program	Determined by local sponsor	6 incubators received grants of \$25,000 to \$50,000; one incubator is beginning operations; others are still in development
Private developer committed to raise \$8.25 million	Private corporation (Suburban American Corporation of Dallas)	Private corporation	Mississippi Research and Development Center	State SBDC will provide management assistance	Maximum 5 year stay; expect average stay of 2-3 years	Signed contract with developer; waiting for developer to secure financing
None	For-profit corporations affiliated with local non-profit corporations	Local for-profit corporation owns and manages the incubator	Missouri Corporation for Science and Technology	Incubator part of innovation centers aimed at commercializing research from universities	None	3 incubators have been established and are operating at 3 of the 4 innovation centers
50% match in cash or real estate	Local non-profit corporation affiliated with a university	State owns facility which local sponsor manages; considering repeal of state ownership provision	North Carolina Technology Development Authority	State universities, community colleges and SBDCs provide technical and management assistance	2 year limit	4 grants made from 11 proposals (one in 1984 and 3 in 1985) one is open and two are partially open; the fourth just broke ground
Equal match required	Non-profit affiliated with an Ohio educational institution	Local sponsor owns and manages incubator	Ohio Department of Development; Thomas Alva Edison Partnership	Informal relationship to advanced technology centers and technology transfer program	Locally determined	6 incubators funded; 3 are now operational; may fund additional ones
Equal match required for loan program	Non-profit economic development organization; university or for-profit business	Incubator owned and managed by local sponsor	Ben Franklin Partnership Fund Board makes loans; 4 ATCs make grants with state review	ATCs must support loan application and make grants to incubators; encourage use of SBDCs for management assistance	Determined by local sponsor	3 incubators have received loans totaling \$1 million; 19 incubators received grants totaling \$1.6 million; amendments to loan program pending in legislature
Development and operating funds raised locally	Local board appointed by major	Private limited partnership owns facility; Control Data Corp. manages it	South Carolina Development Board	Cooperate with SBDCs and technical colleges to deliver services	None, but lease is reviewed periodically	4 communities have developed incubators that are 25% occupied.

Table data compiled June, 1986

Source: Wisconsin Department of Development, Division of Research and Analysis, Bureau of Research, Models of State Entrepreneurial Development Programs, TR-87-1, April, 1987, pp. 60-61.

Appendix D

VENTURE CAPITAL PROGRAMS

TABLE 1

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
AK	Resources Corp.	1978	QP	State approp. \$40M from permanent fund.	3 member board appointed by Governor.	Rehabilitation & enhancement of renewable sources & tourism industry.	49% equity in firm, also some debt and grants.	Most of appropriation committed. Operation phase-out by 1988.
AR	Capital Development Corporations	1986	T	Private Investors; 33% tax credit	Bank Commissioner & State Banking Board.	No specific targets.	Loans, equity, bonds, etc.	No development corporations have been formed at this time.
AR	Science & Technology	1985	QP	\$1.8M from Investment fund of Authority.	11 Directors, 10 of which were appointed by Governor.	Technology based companies in early stages or new products in existing companies.	Seed capital in the form of debt, equity, royalties or a combination of these.	No projects completed
CA	Innovation Devel. Loan Program	1981	PU	Started with \$2M from EDA; \$1M was added in FY 87.	Office of Small Business, Dept. of Commerce.	Small businesses with innovative products. Located in LTED areas.	Loans for working capital, machinery, real estate	7 projects
CT	Product Devel. Corp.	1975	QP	\$17M in state approp., may become self sustaining.	Directors appointed by Governor.	Innovative products and defense companies wishing to diversify.	Product investment with royalty agreement.	Over 50 products, \$14.2M.
CT	Innovation Devel. Loan Fund	1979	QP	\$1.5M state, \$1M EDA	Administered by Product Devel. Corp.	Businesses with new products or processes	Loans from \$40,000 - \$200,000, Max. term six years	15 projects, \$2M.
FL	High Tech, Innovation Research & Dev. Fund	1985	PU	\$1.6M from general revenue.	Board: treasurer comptroller & 7 members of private sector appointed by governor.	R&D activities of new and existing small, high-tech firms.	Equity agreements.	No projects have been funded yet.
IL	Business Innovation fund	1985	PU	\$2M state	Dept. of Commerce & Community Affairs; Technology Commercialization Grants-In-Aid Council.	Technology-based new business start-ups or new product development of existing businesses.	Royalty agreements up to \$100,000	20 projects have been approved, and 14 have already received funding.

PU = public sector

QP = quasi public

SSP = singular state-initiated private

PP = public employees pension fund

T = tax incentive/credit

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
IL	Equity Investment Fund	1985	PI	SIM state	Dept. of Commerce & Community Affairs; Equity Investment Review Committee.	Small technology-based companies that are attempting to expand.	Equity, royalties, or participation certificates. Maximum amount is \$250,000, 2:1 private/public match.	4 projects have been funded.
IL	Illinois Venture Fund Frontenac Venture Co.	1984	SSP	\$2M state approp., \$5M from Frontenac, & \$5M from other institutional investors.	Private firm (Frontenac) responsible for investments.	Prefers technology based startups.	Equity in form of common stock or convertible securities.	3 projects have been chosen.
IL	State Investment Board	1982	PP		Investment Board.		Limited partner.	\$11M committed.
IN	Corporation for Innovation Dev.	1981	SSP	No app. State provides 30% tax credit on \$10M of private capital.	7 member board, 3 appointed by Lt. Governor.	Technically oriented, growth firms at various stages of development based in Indiana.	Equity or equity type investments with CID taking significant management role.	10 projects, \$5M.
IN	Corporation for Science and Technology	1982	CP	\$20M state approp. from general fund every 2 years.	Board composed of individuals from public & private sector.	Technology-based research leading to product that will enhance Indiana economy.	Royalty agreements and contract research.	37 projects, \$21M.
IA	Product Devel. Corp.	1983	QP	\$1.2M in state funds. Also, lottery will provide more capital.	Board selected by governor & confirmed by senate.	New innovative product development that will enhance Iowa job creation.	Product investment with royalty agreement. Only prudent investor deals.	7 projects, \$995,000.
IA	Venture Capital Fund, L.P. Invest America Group.	1983	SSP	Private & institutional investors. Capitalization at \$10.7M.	Limited partnership, managed by private firm. (Invest America)	Start ups. First 18 months all investments must be in Iowa. After that, up to 1/3 capital can be invested out of state.	Equity agreements, significant management role sought.	2 projects.
KS	Kansas Investment Fund	1985	PP	Up to \$20M of public pension fund.	Ks. Pub. Emp. Ret. Sys. & Investment Counsel.	Businesses located in the state.	Secured debt & limited partner.	\$4M committed to 2 funds.
KS	Kansas Venture Capital, Inc./Pooled Money Investment Board	1986	SSP	Up to \$10M of state investment funds; matched by private sector.	15 member board.	Small businesses owned by Kansas residents or any firm or subsidiary operating primarily in Kansas.	Debt and equity.	Not yet in operation.

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
KS	Venture Capital Companies	1986	T	Private investors 25% tax credit.	Department of Commerce.	Small businesses owned by Kansas residents or any firm or subsidiary operating primarily in Kansas.	Common or preferred stock; various types of debt.	Not yet in operation.
LA	Small Business Equity Corp.	1980	QP	\$2M state approp. in 1982.	Board appointed by governor.	Small growth firms, minority owned businesses.	Lend through intermediaries (SBIC's Minority Enterprise SBIC's, & certified dev. corp.) on matching basis. These operations then finance firms through equity debt.	2 projects, \$275,000, only limited equity
LA	Capital Companies Tax Credit	1984	T	Private investors 35% tax credit.	Dept. of Commerce	Business capital for survival, expansion, & new product development; excludes oil & gas, real estate, and banking.	Primarily equity.	No capital companies have been certified.
ME	Capital Corp.	1980	SSP	\$1M of private capital; 50% tax credit.	Private, for-profit SBIC. Additional capital available from	Developing, new companies, or mature leveraged buyouts. No specific industry target.	Equity & equity type financing. Role sought on firms board of directors.	11 projects, \$750,000
MD	Equity Participation Investment	1985	PU	Approp. from existing fund. Add'l. funding expected in 1986.	Maryland Small Business Devel. Financing Authority, no formal guidelines yet.	Minority (race and sex) franchise businesses.	Temporary equity & start-up capital.	Operational in 1986.
MA	Capital Resource Company	1977	T	\$140M from life insurance industry.	Limited partnership owned by nine life insurance companies.	Expansions, turn arounds, management buyouts.	Mostly subordinated debt; some equity, or convertible debt. Deals range from \$200,000 - \$4million.	110 companies have been funded; 2,500 jobs have been created or retained.
MA	Community Devel. Finance Corp.	1980	QP	Investments made from \$10M fund provided by state.	Independently operated. Board consists of 3 government officers & 6 appointees of governor.	Viable small businesses sponsored by Community Devel. Corporations.	Equity, usually shared with CDC's as well as some debt.	32 projects, \$8.5M

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
MA	Technology Devel. Corp.	1979	QP	\$4M from state, \$3M from EDA.	Board consists of 3 gov't officials, 2 academic sector, 6 from private. All appointed by governor.	Early stage, tech. based firms.	Combinations of equity & debt. All investments on co-venture basis.	29 projects, \$7.3M created or retained 1,342 jobs.
MI	Venture Capital Division	1982	PP	Can invest up to 5% of public pension, i.e., \$500 million.	State treasurer.	Small business or venture capital firms; high growth high tech firms.	Direct & passive investments.	\$160M, 30 companies and 15 venture capital funds.
MS	Chapter 459	1985	I	Private investors 25% tax credit.	State Board of Economic Development.	Small business engaged in mfg., agriculture, minerals, transportation, R & D, etc.	Debt equity or lease-back financing.	Not yet functioning.
MT	Capital Companies	1983	I	Private investors 25% tax credit.	Economic Devel. Board.	Small business engaged in mfg., agriculture, tourism, transportation, R & D, etc.	Loans & Equity.	4 capital companies have obtained their initial capitalization of \$200,000.
NM	Business Devel. Corp.	1983	SSP	\$2M private as well as \$5M credit capacity with state & financial institutions.	Private.	Early stage firms, start-ups on limited basis.	Collateralized debt; equity also available.	7 projects and \$1M committed.
NM	Research and Development Institute	1986*	PU	\$2.5M per year from state funds.	State agency.	Technology based products, services, and processes close to commercialization.	R&D seed capital on 2% royalty basis.	16 projects, \$2.7M
NY	Business Venture Partnership	1984	PP	Can invest up to 5% of public pension fund (\$60M)	Private firm.		Limited partner.	\$10M committed.
NY	Corp. for Innovation Devel. Program, Science & Tech. Foundation	1982	QP	\$2.8M in state (1.8M) & federal funds (EDA, \$1M).	Decision made by Foundation Board of Directors, composed of commissioners of health, education & commerce & private sector individuals.	Foster innovative, tech. based, new ventures that will stimulate state economy.	Debt, equity, or both 3:1 private match.	23 projects, \$2.25M

* This entity was originally established in 1981 as the New Mexico Energy Research and Development Institute. Its original focus was on energy related services and products. In 1986, its name and mission was changed.

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
NC	Innovation Research Fund	1983	QP	\$225,000 state approp. \$375,000 state approp.	State Technological Development Authority.	To firms with relevance to NC economy; want links to state universities, up to \$50,000 per project.	Seed capital, royalty.	16 projects.
ND	Venture Capital	1985	T	25% tax credit to investors up to a max. of \$250,000 each. (\$4M state total)	Private, state-certified capital corporations (\$50,000 base)	Small business, R & D	Start up and venture; not seed.	None certified yet.
OH	Edison Seed Development Fund	1983	PI	Approx. \$20M out of the \$67.5M state-funded Thomas Alva Edison Program.	Thomas Edison Program, Department of Development. Also Industrial Technology & Enterprise Advisory Board, a bipartisan independent body.	Applied research partnerships between businesses and universities.	\$50,000 R&D grants; royalty agreements, up to \$250,000.	54 projects over \$5.3M state funding matched by \$8.2M from industry.
OH	PERS	1981	PP	Up to 5% of \$11B fund.	Public Emp. Ret. Sys.	Not for seed cap.	Direct and passive investment.	\$64M committed.
OR	Resource & Technology Devel. Corp.	1985	QP	Up to \$13M state approp., depends on lottery receipts.	Non-profit, public corporation. Board represented by governor & 10 directors chosen by him from various sectors with senate confirmation.	Innovation in existing industry & development of new industries.	Near equity seed capital, R&D funding.	Not yet in operation.
OR	Investment	1983	PP	Can use up to 5% (\$300M)	Investment Council, but relies on financial assessments of private venture capital firms.	None	No equity.	\$100M committed.
PA	Ben Franklin Partnership Seed Capital Fund Program.	1983	QP	\$3M set aside from \$190M industrial revenue bond financial program. \$15.3M of private capital.	Four regional privately-managed funds.	New businesses during early stages including firms in small business incubators. Seed capital.	Equity financing private match.	4 projects.

STATE	NAME	YEAR	TYPE	FUNDING SOURCES	GOVERNING OVERSIGHT	TARGETS	INVESTMENT TYPES	ACTIVITY
PA	State Employees Retirement Fund; Public School Employees Retirement Fund.	1984	PP	Up to 19% of assets, i.e., \$100 million.		At least 50% in Pennsylvania firms.		\$66 million invested in 7 venture funds.
UT	Tech. Finance Corp.	1983	QP	\$3.2M program revenue base. Approx. \$1M for venture capital program.	Board appointed by Governor. Venture capital Program operated independently by Utah Technology Venture Fund I.	New and emerging based companies	Equity position, some management role sought.	No projects completed.
WA	State Investment Board	1981	PP	Can use up to 30% of state pension funds.	Board of Trustees for fund.	None	Limited Partnerships	\$200M committed
WI	Community Capital Inc.	1982	SSP	\$250,000 in one-time only state approp., \$2.6M from private investors; \$100,000 in contributions attracted by 75% tax credit.	Board of Directors elected by shareholders.	Firms connected with comm. development corporations. Create jobs for chronically unemployed.	Equity and debt	24 projects, \$205,000
WY	Capital Corp. of Wyoming	1979	QP	\$1.2M initial capital. Also many institutional stockholders.	Investment decisions made by privately-managed brd. Created Capital Corp., a private SBIC (funding available from SBA)	Diversified mfg. enterprises with potential growth management.	Equity and debt	Approx. 25% of over \$12.7M committed and viable.
WV	Capital Companies	1986	T	Private investors 50% tax credit.	Industrial and Trade Jobs Development Corporation.	Business Capital for survival, expansion and new product development.	Equity and Debt.	Operational in 1986.

Source: Wisconsin, Department of Development, Division of Research and Analysis, Bureau of Research, Models of State Entrepreneurial Development Programs, TR-87-1, April 1987, pp. 91-96.

Appendix E

Chart III
PUBLIC PENSION FUNDS
CHANGES IN INVESTMENT RESTRICTIONS⁹
(1978-1984)

State ¹⁰	No Change	Prudence Standard	Basket ** Clause	Other Changes	Assets ¹¹ (\$Billions)	Venture ¹² Investments (\$Millions)
AL	x				4.6	z
AK				u	1.7	
AZ		x		a	3.7	
AR				b	1.9	
CA		x		c	34.5	
CO					4.0	10.0
CT	x				3.0	
DE	x				0.7	
FL				d,v	7.0	
GA	x				4.7	
HI				e,t	2.2	
ID	x				0.7	
IL		x	10%	f	9.0	24.0*
IN	x				2.1	
IA	x				2.3	z
KS	x				1.9	
KY				g	3.0	
LA		x		h	3.9	
ME	x				0.7	
MD				i	4.1	
MA	x				2.1	
MI			j(5%)		9.4	112.8
MN				d,k,j	5.2	z
MS	x				1.7	
MO		x			3.4	
MT		x	10%		0.7	z
NB		x		l	0.5	z
NV	x				1.3	
NH	x				0.6	
NJ	x				3.2	
NM					1.7	
NY		x	5%	m (6%)	34.1	60.0
NC				r	8.0	
ND				m (20%)	0.6	
OH		x	j (5%)	n,o,q,	20.4	70.6
OK				p	1.7	
OR					4.0	70.0
PA			j (1%), 10%	q (5%), r	11.0	
RI	x				0.7	z
SC	x				3.0	
SD	x				0.5	
TN				w	3.4	
TX	x				12.4	
UT	x				1.8	z
VT			10%		0.3	z
VA	x				3.6	
WA		x		s, (6%)	7.4	266.0
WV		x		s, (3%)	0.6	
WI		x			10.3	z
WY	x				0.1	z
Total					250.0	613.4

NOTES TO TABLE SHOWING CHANGES IN RESTRICTIONS

- x... Indicates presence of the restriction
- a... Authorized a home loan program
- b... Permitted covered call options
- c... State funds required to invest in in-state mortgages
- d... Authorized investment in commercial paper, bankers' acceptances, and repurchase agreements
- e... Eliminated restrictions on Israeli bonds, National Housing Bonds
- f... Eliminated restriction on the number of years for which dividends were paid
- g... Authorized city pension systems to pool investments to improve yield
- h... Proposed authorizing investments in real estate mortgages
- i... Increased maximum percent of assets to be invested in non-dividend paying stock
- j... Authorized assets to be placed in venture capital limited partnerships
- k... Authorized investment in foreign bonds
- l... Authorizes writing of put and call options
- m... Increased maximum percent of assets to be placed annually in equities
- n... Allowed investments in real estate mortgage certificates and debentures
- o... Allowed basket clause exemption for investments in in-state corporations
- p... Eliminated restriction of maximum percent of assets in any single investment
- q... Allowed investments in over-the-counter stocks
- r... Allowed investments in U.S. securities, pooled real estate funds
- s... Required portfolio diversification
- t... Eliminated maximum percent of single stock held by fund
- u... Authorized investments in gold bullion
- v... Authorized investments in FNMA obligations
- w... Allowed investment in commercial real estate
- z... Under consideration

Source: U.S. Small Business Administration Office of Public Advocacy. State Activities in Capital Formation: Venture Capital, Working Capital, and Public Pension Fund Investments (Washington: 1985), pp. 30-31.

⁹Ibid., pp. 11-12-11-13.

¹⁰States may include more than one public pension fund system.

¹¹"Institutional Investor Magazine," December 1984.

¹²Direct Calls and "Pension and Investment Age," various editions, 1984.

*Includes \$20.0 million invested by Chicago Municipal Employees Annuity and Benefit Fund.

**Basket clause means allowing a certain per cent of pension fund assets to be invested in ways not otherwise permitted.

Appendix F

HAWAII CAPITAL LOAN PROGRAM Classification of Loans as of 4/17/86

	Number of Loans		Original Loan	
	Number	%	Amount	%
1. Construction	9	8.2	\$ 505,000.00	6.9
2. Forest Products	--	--	\$ ---	--
3. Manufacturing:				
a. Electronics	2		200,000.00	
b. Energy	--	--	---	--
c. Garment	13		907,500.00	
d. Wood Products	2		74,000.00	
e. Egg	--	--	---	--
f. Fruits	4		200,000.00	
g. Vegetables	--	--	---	--
h. Others	<u>20</u>		<u>1,420,500.00</u>	
Sub-Total	41	37.2	\$2,802,000.00	38.5
4. Mining	--	--	---	--
5. Nursery	--	--	---	--
6. Retail:				
a. Restaurants, Fast				
Foods Catering	5		251,750.00	
b. Fish Market	4		290,000.00	
c. Other	<u>8</u>		<u>463,000.00</u>	
Sub-Total	17	15.5	\$1,004,750.00	13.8
7. Service:				
a. Hotel	1		50,000.00	
b. Professional (Dr.,				
CPA, etc.)	2		62,750.00	
c. Beauty Salon	--	--	---	--
d. Cable TV	--	--	---	--
e. Care Homes	2		119,500.00	
f. Printing	--	--	---	--
g. Film Industry	2		107,856.00	
h. Others	<u>17</u>		<u>963,300.00</u>	
Sub-Total	24	21.8	\$1,303,406.00	17.9
8. Transportation:				
a. Freight	1		250,000.00	
b. Passenger	<u>1</u>		<u>7,500.00</u>	
Sub-Total	2	1.8	\$ 257,500.00	3.5
9. Wholesale:				
a. Fishing	6		491,040.00	
b. Other	<u>11</u>		<u>921,603.00</u>	
Sub-Total	17	15.5	\$1,412,643.00	19.4
GRAND TOTAL	110	100.0	\$7,285,299.00	100.0

Information provided by the Department of Business and Economic Development, Financial Assistance Branch.

Appendix G

DEPARTMENT OF BUDGET AND FINANCE OF THE STATE OF HAWAII SPECIAL PURPOSE REVENUE BONDS FOR MANUFACTURING, PROCESSING AND INDUSTRIAL ENTERPRISES AS ORIGINALLY AUTHORIZED BY THE STATE LEGISLATURE

<u>Project Name</u>	<u>Legal Authority</u>	<u>Original Authorization</u>
Ethanol Plant	Act 109, SLH 1983	\$10,000,000
Aloha Studio, Inc.	Act 300, SLH 1983	\$10,000,000
Ewa Plain Water Development Corp.	Act 96, SLH 1985	\$25,000,000
Kamaoa Wind Energy Partners	Act 145, SLH 1985, as amended by Act 3, SLH 1987	\$12,000,000
Hawaiian Abalone Farm	Act 147, SLH 1986	\$ 6,000,000
Cyanotech Corp.	Act 190, SLH 1986	\$ 3,000,000
Wailua River Hydro	Act 259, SLH 1986	\$ 9,000,000
Hanalei Power Co., Inc.	Act 227, SLH 1986	\$12,000,000
Honolii-Mauna Kea Power Company	Act 263, SLH 1987	\$15,000,000
Honolii-Island Power Company	Act 304, SLH 1987	\$20,000,000

October 14, 1987

Source: State of Hawaii, Department of Budget and Finance.

Appendix H

WISCONSIN SMALL BUSINESS DEVELOPMENT CENTER INFORMATION SERVICE

Objectives and Tasks for Dissemination of Business Information

- (1) To determine the information services needed by small business owner/managers:
 - . Develop a mailing list of small businesses, private consultants, SBDC coordinators, county agents, consultants, information staff, professionals with small business clients, e.g., lawyers, CPAs, advertising firms, etc., government agencies involved with small business, and business librarians/information specialists;
 - . Pilot test the survey instrument and revise the survey;
 - . Disseminate survey to mailing list;
 - . Send follow-up letter to insure statistically adequate sample;
 - . Analyze results of survey to determine needs of small business persons as identified by all groups concerned.
- (2) To identify, collect, classify, and disseminate business information:
 - . Survey literature of secondary data sources relating to business;
 - . Develop and prepare a written collection development policy;
 - . Investigate possible classification schemes for materials, and identify most usable, applicable system for the collection;
 - . Set up technical processing system for materials, and as they arrive, classify, process and shelve them;
 - . Set up system to process and route business periodicals;
 - . Use collection development policy guidelines to continue to build a better collection for serving the small business community.
- (3) To develop and implement a network or referral system for information from libraries, government agencies and other information services, e.g., business reference librarians, government agency librarians, researchers in business areas, and staff of agencies organized to help businesses:
 - . Interview individuals already involved in business information services, e.g., business reference librarians, government agency librarians, researchers in business areas, and staff of agencies organized to help businesses;
 - . Obtain information on new commercial sources available;
 - . Place SBDC's name on newsletter and brochure mailing lists of commercial and government publishers;
- . Survey business reference books for more sources of information;
- . Set up card file system of contacts as they are made and continue adding to this network.
- (4) To investigate and initiate use of government and commercial databases as information sources:
 - . Obtain information from producers, commercial and governmental, of business information database, including costs, hours of service, services offered, etc.;
 - . Decide which sources to try and learn protocols to access selected systems;
 - . Run several sample searches;
 - . Attend seminars on using specific services and/or database;
 - . Continue to investigate other services like DIALOG, WILSONLINE, etc., as they become available, possibly subscribing to periodicals to learn of new computer services and databases and increase usage of information services and data banks;
 - . Organize file of searches run for future reference.
- (5) To obtain and disseminate business information from local, state, and federal government sources as well as commercial publishers:
 - . Investigate publications of government and commercial publishers useful to small business;
 - . Obtain multiple copies of free publications to disseminate to business owner/managers and business counselors or consultants;
 - . Disseminate order information for good sources requiring a fee for their publications.
- (6) To market the service to individuals involved with small business in the state:
 - . Assemble information for a brochure describing the services of the information service and order the publication printed;
 - . Maintain detailed records to identify use patterns of end users of this service;
 - . Record use of information by sources, e.g., computerized databases, traditional library sources, and end users, e.g., county agents, small business clients, state, federal, and local government agency employees, etc.;
 - . Produce a semiannual summary of the accomplishments of the information service;

- . Locate mailing lists to use for brochure distribution and distribute brochure through direct mail, government agencies, and other library/information services;
 - . Develop newsletter-type articles on outstanding publications or databases for submission to SBDC newsletter editor as well as to editors of other newsletters sent to business persons in all areas of the state.
- (7) To quantify and publish accomplishments of the information service:
- . Maintain detailed records to identify use patterns of end users of this service;
 - . Record use of information by sources, e.g., computerized databases, traditional library sources, and end users, e.g., county agents, small business clients, state, federal, and local government agency employees, etc.;
 - . Produce a semiannual summary of the accomplishments of the information service.

Source: Susan C. Awe, "The Wisconsin Small Business Development Center Information Service", Special Libraries, Summer, 1986, pp. 154-155.

Appendix I

THE CENTER FOR ENTREPRENEURSHIP WICHITA STATE UNIVERSITY COURSE DESCRIPTION

Undergraduate Courses

160Q

Introduction to Entrepreneurship

An introductory course designed to familiarize students with the world of small business, and analyze the personal strengths and weaknesses of students relative to launching an entrepreneurial career. Attention is given to planning, financing, starting, and managing a new business. The course fulfills WSU's general education requirements.

361

Entrepreneurship: The Start-Up

Exploration of ways to own a business, including starting a new business, and buying a franchise or existing business. Students use the case study method of learning, conduct a market analysis, and generate a sales forecast.

ME 4501

Technical Entrepreneurship

Integration of engineering and business skills to expose the engineering students to the steps involved in taking an idea from the prototype stage to the finished product in the marketplace. Business plans are developed around new products conceived by the engineering students.

465

Small Business Management

Study of techniques of managing a small business, how to manage it successfully, what problems to expect the first year, and how to prepare for changes that occur as a company begins to mature. Relevant perspectives on marketing, finance, accounting/control, and operations are included.

560

Small Business Consulting

Students gain experience in consulting with an existing small business, and work with the owner in teams, with the help of the instructor, to identify the problem, gather information, propose solutions, and assist the owner in the implementation.

668

Advanced Entrepreneurship — Venture Creation

Identification and development of procedures for starting a new business, and development of a business plan including definition of the business, market analysis, and capital requirements.

Graduate Courses

868

New Venture Feasibility Seminar

Students learn methods of selecting financial sources through the preparation of a comprehensive feasibility study. Topics include sources of capital, marketing analysis, pro-forma development, feasibility decision making, and preparation of a loan package.

893

Organizational Innovation in Entrepreneurship

Methods of incorporating the entrepreneurial spirit into the corporate setting are studied from a unique managerial point of view. The case study approach is used, and methods of encouraging and enhancing the creative problem-solving process within a department or company are studied.

Seminars, Workshops, and Individual Studies

The Center offers a variety of workshops, seminars, individual and group directed studies, and internships that can be specially tailored to the individual's educational and entrepreneurial goals.

Source: The Center for Entrepreneurship-Wichita State University.

Appendix J

THE STATED PAST NEEDS OF SMALL BUSINESS IN HAWAII

General management

1. The owner is often unable to organize his business efficiently and to delegate many of the details of operation to others who are specially qualified. Therefore, he has too much to do with too little time in which to do it; he "spreads himself too thin," trying to do everything himself instead of delegating authority.
2. The small businessman needs to be a generalist rather than a specialist so he can handle all the many aspects of his business well. He needs a good knowledge of his products, buying, selling, handling finances, and many other areas.
3. There needs to be a good balance among the various functions (departments) within the company. Sometimes the businessman will devote much time to a few activities while neglecting or ignoring others which are also essential.
4. There is need for more business management courses, with special emphasis on solving the problems of small business.
5. Small businessmen should utilize management consultants to survey their operations and make suggestions for improvements.
6. Small businessmen must learn to anticipate and plan for the future of their businesses; this area of planning ahead intelligently is much neglected in small business today.
7. Before he decides to expand his business, the small businessman should either have or develop the ability to manage and work with people effectively.
8. The expansion of a business needs to be carefully planned in advance. In general, it is unwise to expand into another line of business without previous experience in that line.
9. The enterprise as a human organization has to be able to survive the lifespan of any one man.
10. Frequently a small businessman unnecessarily drains capital from his business to pay excessive salaries to the officers of his firm.
11. The small businessman sometimes invests unwisely in expensive equipment that he actually doesn't need in his business.
12. Personal extravagance by the owner of a small business sometimes causes him serious trouble.

Personal characteristics of the owner

1. Managers need to have professional skills.
2. Lack of education is a major handicap to the small businessman in Hawaii.
3. The businessman's personality may be offensive, and he may, therefore, tend to make enemies.
4. The businessman must have good judgment.
5. The small businessman frequently regards himself as an expert in many fields when in fact he is not.
6. The small businessman is by nature independent and detests controls and regulation by any outsider--therefore, it is sometimes hard to persuade him that he needs any help or should change his ways of doing things.
7. Complacency on the part of some small businessmen causes them to be indifferent to their problems and to the need for solving them which would make their business operations more efficient.

Financing

1. Small business in Hawaii is greatly hampered by a lack of sufficient capital, particularly for equity purposes.
2. There must be additional permanent investment capital made available to small business as well as risk or venture-type capital.
3. Apparently the greatest need for credit and loans on Oahu is in manufacturing, because the managers do not have available, concise, accurate records on which to base their loan requests.
4. It is best to borrow needed capital from a bank.
5. There is great need for a liberal loan policy and a lending program designed specifically for small businesses--one that will be safe for them to participate in.
6. It is frequently difficult for the small business to qualify as a good risk for a loan and to provide collateral for loans.
7. More information should reach the small businessman about the available sources of capital (e.g., a banking manual).
8. Small business investment companies should be established in Hawaii.

Financing (continued)

9. A continuous study of small business needs for credit in Hawaii and the extent to which they are being satisfied would be helpful.
10. Small business needs special sources of credit and loans in recession or depression.
11. Undercapitalization is prevalent in Hawaii. Also, firms frequently expand without sufficient capital to support them.
12. The small businessman needs fair and equal credit treatment from suppliers.
13. Wholesalers in Hawaii no longer extend any credit to retailers.

Business records

1. A lack of basic financial and other records is prevalent among Hawaii's small businesses.
2. Businessmen need to understand financial statements and the niceties of financial management. (Special courses might help).
3. Accounting and costing systems, if any exist, are sometimes deficient.
4. Businessmen in the islands sometimes fail to properly estimate costs.
5. The small business owner should use financial ratios in keeping a close current check on his operations.

Merchandising

1. The small businessman complains that his customers are hard to satisfy; they want more services, lower prices, greater variety of merchandise, etc.
2. Merchandising methods used by many small businessmen in Hawaii are outdated and obsolete.
3. The Hawaii businessman has a particularly difficult time in getting merchandise, because of the large shipping costs and great length of time involved.
4. A poor location can be fatal for a small business, for if a place of business is not convenient for prospective customers, they will not patronize it. Also a location that was once a good one may no longer be so (e.g., downtown area, slum, declining neighborhood, etc.).

Merchandising (continued)

5. Frequently a trade association can perform a useful service for the member businessman by promoting the products of the association membership as a whole, but many small businessmen do not join these associations and benefit from their services.
6. Losses from bad debts plague many businessmen. These can, of course, be especially hurtful to the very small business. They can be largely prevented by the businessman if he makes a thorough investigation of customers' credit ratings before granting credit.
7. The small businessman needs help in learning how to "sell himself" and how to market his goods or services more effectively.
8. Technological advances may shift consumers' preferences from one product (which firms have on hand) to a newly-developed substitute incorporating some improvement over the old one.
9. The small businessman is prone to accumulate inventory in slow-moving items, thus unnecessarily tying up his working capital. Conversely, he may not keep enough stock of his fast-moving items, thereby losing possible sales. Both of these mistakes could be prevented by adopting and using a system of inventory control, with periodic checks as to what is on hand, then clearing out the "deadwood."
10. Advertising is often neglected by small business. Or, the advertising that is done is not placed where it will do the most good. From this it follows that businessmen need education in the values of advertising, followed by assistance in its effective use.

Market information

1. Many small businessmen do not use the market information, services, and facilities that are already available to help them. Among these sources of help are business publications, government reports, trade associations, etc.
2. Businessmen should exchange information and technical knowledge for the benefit of all in the community.
3. There is a great need for the counseling of the prospective businessman before he plunges unprepared into the business world. He needs adequate advance preparation and training; or he needs to be told why he should not go into business for himself. Both of these services would be equally valuable, to the individual businessman, to his local community, and to the economy.

The business environment

1. A decline in business activity is very damaging to small business.
2. Declining population on the neighbor islands is very detrimental to small business there, as indeed it would be anywhere.
3. Fluctuations in world coffee prices have been disastrous to small businesses on the Island of Hawaii.

Competition

1. Monopolistic practices by big business undermine small businesses.
2. There are too many small businesses in Hawaii.
3. Laws regulating competition must be clarified and enforced.
4. Price competition and discrimination are formidable problems to the independent businessman.
5. Large business firms can lower prices, even below cost at times, thus causing the small businessman much difficulty if he cannot lower his price to the same level and keep operating. Usually, the small business cannot afford to drop prices below cost, because it cannot absorb losses as big business can.
6. Big business sometimes receives unfair price concessions that give it a competitive advantage over small business.
7. It is difficult for a small business to obtain the rights to sell the best brand-name products, especially if established dealers already have exclusive rights.
8. Chain stores, with their lower prices and wide selection, are a serious threat to small business.
9. The strong trend toward supermarkets in Hawaii takes business away from the small grocer.
10. Foreign competition from low-cost countries is damaging to the small businessman in Hawaii, because he can't meet their prices.
11. Small business cannot compete effectively for well-qualified employees because of its inability to offer as high salaries and benefits as large corporations and government.
12. Discriminatory freight rates are a problem, especially in Hawaii, because of its vicinal remoteness.

Competition (continued)

13. Government competition against small business is unfair to the small businessman.

Labor

1. Employees should be selected after a thorough review of their background, personality, and their suitability to the particular jobs available.
2. It is vital that the businessman have good employee relations and that he be able to communicate effectively and continually with his employees.
3. There is a need for wage stabilization so that a small business may effectively compete for labor on even terms with other businesses, both small and large.
4. Higher pay for labor is difficult for small businesses to provide within their limited means.
5. Shorter working hours demanded by labor are a handicap to the efficient business operation.
6. The small businessman cannot afford to provide pensions for his employees.

Government

1. Government regulations frequently cause problems for the small businessman.
2. The small businessman needs to be given more and better knowledge of government regulations.
3. Conflicting policies and orders issuing from the many government agencies frequently cause great difficulty and frustration for the small businessman.
4. Government competition with business is deeply resented.
5. The loss of government contracts may be seriously damaging to a small business.

Taxation

1. The high income and corporate tax rates now in effect prevent the accumulation of funds which can be reinvested in the business.
2. High tax rates tend to depress incentives.
3. High tax rates squeeze working capital and limit the development of operating facilities, thus limiting the growth of business.

Taxation (continued)

4. High taxes jeopardize the perpetuity of the enterprise; this may force its liquidation (and frequently does upon the death of the owner).
5. Estate taxes are so high that they are strangling small business.
6. The present tax system in Hawaii is very punitive to small business (e.g., pyramiding taxes).
7. Federal flat-rate taxes are much more regressive on small than on large business.
8. Excise taxes, which are levied on some products and not on others, are unfair to the sellers of the taxed products because of the price increase thus effected on those products.
9. Tax laws must be greatly simplified and clarified, so small businesses will not need to "consult a battery of tax advisers before each business decision," as at present. Record keeping and preparing of the return also need scrutiny and revision.

Excerpted from Small Business in the Hawaiian Economy, University of Hawaii, Economic Research Center, 1963, pp. 75-81.

Appendix K

PAST MAJOR PROBLEM AREAS

No. of Cases	Specific Problems	No. of Cases	Specific Problems
1.	Personal Characteristics:	6.	Neglect of Business:
23	Inappropriate experience	5	Outside interests, part-time business
8	Personality, knowledge	5	Lack or loss of interest
4	Failure to take advice	4	Incapacitation of owner (illness, accident, or death)
2	Language difficulty	3	Old age, slowing down
1	Excessive drinking	1	Absentee management
2.	Records and Expenses:	1	Poor maintenance
16	Controlling expenses, financial management	7.	Dishonesty, Fraud, or Questionable Practices:
12	Poor accounting, inadequate records	10	Personal withdrawal of business funds
5	Non-payment of taxes	5	Owner's dishonesty
2	High costs or rent	4	Other's dishonesty (employees, associates)
3.	Market Conditions:	8.	General Management:
10	Competition	5	Management disagreement
8	Location, parking	3	No advance planning
6	Changing economy	3	Long hours, much work
3	Inadequate volume	2	Old-fashioned methods of operation
2	Market or price fluctuations	9.	Personnel:
2	Leases	8	Handling employees
2	Getting goods and raw materials	3	Keeping good employees
2	Government licenses	3	Getting good employees (scarcity, selection, etc.)
1	Business decline	10.	Market Information:
1	High taxes	7	No knowledge of market or market research
4.	Merchandising:	4	Inventory control
7	Pricing methods	1	Failure to use available information
7	Service		
5	Merchandising methods, general		
2	Merchandise quality and variety		
1	Low profit margin		
5.	Financing:		
13	Working capital		
4	Fixed capital		
4	Excessive borrowing		
1	Excessive fixed assets		

Excerpted from Small Business in the Hawaiian Economy, pp. 257-258.

Appendix L

CURRENT MEMBERS OF THE GSBAC

Private Sector

Mrs. Bette Tatum, Chairperson
National Federation of Independent
Businesses/Hawaii

Mr. Desmond Byrne
Computab

Ms. Momi Cazimero
Hawaiian Business/Professional Assoc.

Mr. Thomas S. Evans
The Chamber of Commerce of Hawaii

Mr. Charles Lum, District Manager
U.S. Small Business Administration

Mr. Tim Lyons
Hawaii Business League

Mr. Cliff Slater
Maui Divers of Hawaii, Ltd.

Mr. Sam Slom
Small Business Hawaii

Public Sector

Mr. Robert Alm
Director, of Commerce & Consumer Affairs

Mr. Richard F. Kahle, Jr.
Director of Taxation

Mr. Russell Nagata, Comptroller
Dept. of Accounting & General Services

Mr. Mario Ramil
Director of Labor & Industrial Relations

Mr. Roger A. Ulveling, Director
Dept. of Business & Economic Development

Appendix M

HAWAII STATE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES COMMENTS ON MODEL PROMPT PAY LEGISLATION

MODEL PROMPT PAY LEGISLATION*

- (1) It is the policy of this state or commonwealth that all bills owed by state departments, institutions and agencies shall be paid promptly. No state or commonwealth department, institution, agency, or project supported in whole or in part by state or commonwealth funds, shall be exempt from the provisions of this statute.
- (2) All bills shall be paid within 30 calendar days of receipt of invoice, except as provided in (3) and (7).
- (3) Where the state or commonwealth, or a project sponsored by the state or commonwealth funds, purchases meat and meat products, fish and shellfish, edible fresh or frozen poultry, poultry meat food products, fresh eggs and perishable egg products, bills shall be paid within 7 calendar days. Payments for groceries, vegetables, fresh fruit, and other perishables shall be made within 10 calendar days. For other industries with common payment practices of less than 30 calendar days, the state or commonwealth shall comply with industry terms.
- (4) Interest penalties shall be paid automatically when bills become overdue. It shall be up to each state or commonwealth agency, and each project administering state or commonwealth funds, to calculate and pay interest automatically at the time payment is made on the principal. Interest payments shall accompany payment of net due for goods and services. Agencies shall not require companies to petition, invoice, bill, or wait any additional days to receive interest due.
- (5) Partial payment shall be made on partial deliveries. Each complete item or service must be paid for within 30 calendar days or in accordance with (3) above.
- (6) All proper deliveries and completed services shall be received or accepted promptly and proper receiving and acceptance reports shall be forwarded to payment offices within 3 days of delivery of goods or completion of service.
- (7) Payment shall be due on the date on which the agency or office designated by the agency to first receive such invoice actually receives the invoice or receives the goods or services, whichever is later. The 30, 10, and 7 calendar day periods shall be considered as "grace periods" during which all proper invoices shall be paid.
- (8) The rate of interest paid by the state or commonwealth shall be the one commonly charged to all the vendor's customers. The rate of interest charged by the vendor may be equal to the vendor's cost of short-term money, but not higher. Vendor is required to state the interest rate on the invoice.

COMMENTS OF DAGS RELATING TO CERTAIN PROVISIONS OF THE MODEL PROMPT PAY LEGISLATION

- (1) Section 103-10, HRS, which provides that payment shall be made no later than 45 days, is applicable to all State agencies and the counties.
- (2) The current statutory requirement of 45 days should not be reduced to 30 days. Some of the considerations that should be taken into account are the size of State government, preferences given to local businesses, and low collection risks for vendors.
- (3) Special preferences should not be given to any particular industry.
- (4) The State accounting system calculates interest automatically. Upon review and approval by the department, payment is processed. An exception is that for interest under \$5.00, the vendor needs to submit a claim.
- (5) The State does make payments on partial deliveries.
- (6) Because of the wide range in the size of departments, procurement structure of departments and locations of deliveries, it is best for each department to set its own standards.
- (7) Payment should not be considered due on invoice-receipt date in the sense that payment after that date would be considered late. Satisfactory delivery or receipt of proper invoice, whichever is later, establishes liability, but not due date.
- (8) Interest rates should not be the various vendors' rates; any interest rate should apply equitably to all vendors.

- (9) Unpaid interest penalties owed to vendors shall compound every month.
- (10) These rules shall apply to all purchases, leases, rentals, contracts for services, construction, repairs, and remodeling.
- (11) No discount offered by a vendor shall be taken by the state or commonwealth, or by a project manager administering a state or commonwealth-supported project, unless full payment is made within the discount period. In the event a discount is taken later, interest shall accrue on the unpaid balance from the day the discount offer expired.
- (12) Interest shall be paid from funds already appropriated to the offending department, institution or agency or granted to the state or commonwealth-supported project. If more than one department, institution or agency has caused a late payment, each shall bear a proportional share of the interest penalty. No interest shall be charged directly back to the state or commonwealth's general funds.
- (13) In instances where an invoice is filled out incorrectly, or where there is any defect or impropriety in an invoice submitted, the state or commonwealth department, institution, agency, or the state or commonwealth-supported project, shall contact the vendor in writing within 10 days of receiving the invoice. An error on the vendor's invoice, if corrected by the vendor within 5 working days of being contacted by the agency, shall not result in the vendor being paid late.
- (14) Checks shall be mailed or transmitted on the same day for which the check is dated.
- (15) This statute authorizes no new appropriation to cover interest penalties. Neither state or commonwealth departments, institutions and agencies nor state or commonwealth-supported projects shall seek to increase appropriations for the purpose of obtaining funds to pay interest penalties.
- (16) Payment of interest penalties may be postponed when payment on principal is delayed because of disagreement between the state or commonwealth and the vendor. However, in the event of a dispute, the dispute shall be settled within 30 days after interest penalties could begin to be assessed. At the resolution of any dispute, vendors shall automatically receive interest on all proper invoices not paid for as provided in (2) within 30 calendar days (or with 7 calendar days in the case of meat and meat products (as defined in (3)), or within 10 calendar days for groceries, vegetables, fresh fruit and other perishables).
- (17) On small purchases of \$500 or less, the state or commonwealth, or state or commonwealth-supported project shall wherever possible: (A) make payment by cash-on-delivery, or (B) make payment by 10 calendar days after receipt or acceptance of the goods.
- (18) This statute shall in no way be construed to prohibit the state or commonwealth from making advanced payments, progress payments, or from prepaying where circumstances make such payments appropriate. All such payments shall be made promptly and are subject to interest penalties when payment is late.
- (10) The State statute applies to all purchases of goods and services from vendors.
- (12) The current practice is that each department is paying its share of interest out of appropriated funds.
- (13) In consideration of the variety of problems that can occur with regard to invoices, the simple criterion for counting time for payment purposes should be satisfactory delivery or receipt of proper invoice, whichever is later.
- (14) In the real world of workload management, it is not practical to require that checks be mailed or transmitted on the check date.
- (16) This provision is not needed (and would not even be appropriate) if each invoice is acted upon separately and independently of other invoices of the same vendor.
- (17) This appears to be an arbitrary requirement, with no reason given for treating \$500 payments differently from larger payments.

(19) Where construction, repair and remodeling payments are subject to retainage, interest penalties shall accrue on retained amounts beginning 30 calendar days after substantial completion by the contractor(s) unless otherwise provided by the contract. When a prime contractor withholds retainage from a subcontractor or supplier, the rate of such retainage shall be no higher than the rate the government withheld from the prime contractor.

(20) Any contract awarded or supported in whole or in part by state or commonwealth funds shall include a payment clause which obligates the prime contractor to pay each subcontractor (including a materials supplier) as provided in this paragraph. A vendor who has received payment from the state or commonwealth shall pay each subcontractor (including a materials supplier) within 7 days out of amounts paid to the vendor by the state or commonwealth for work performed by the subcontractor or supplier under the contract. If the vendor does not make the payment within that time period, the vendor shall pay interest to the subcontractor as provided by sections 4 and 8 of this Act. A vendor's obligation to pay an interest penalty to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the state or commonwealth. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.

(21) Each department, institution and agency head shall be responsible for prompt payments. In all instances where a payment is made late, the head of the state or commonwealth agency shall submit to the proper committee of the state or commonwealth legislature an explanation of why the bill is paid late and what is being done to solve the late payment problem.

(22) Whenever a vendor brings formal administrative action or judicial action to collect interest due under this Act, should the vendor prevail, the state or commonwealth is required to pay any reasonable attorney fees.

(23) State or commonwealth agencies making purchase for projects using Federal funds shall make no purchases without final assurance of Federal funds to cover cost of purchases. Where the date of payment to vendors is contingent on the receipt of Federal funds of Federal approval, the solicitation of bids for contracts and any contracts awarded shall clearly state that payment is contingent on such conditions.

(24) Each January, the Governor shall submit a report to the state or commonwealth legislature summarizing the state or commonwealth's payment record for the preceding year. Included in the report shall be (A) the number and dollar amount of the late payments by department, institution and agency, (B) the amounts of interest paid, (C) the percents (A) and (B) are of the total number of purchases and the total dollars spent on procurement of all goods and services, and (D) specific steps being taken to reduce the incidence of late payments.

(25) This statute shall be effective at the beginning of the state's or Commonwealth's next fiscal year and shall apply to all payments due on or after that date.

(19) This also appears to be an arbitrary provision, without a stated justification. Retainages should be due as other liabilities are due (i.e., within the stated period after the liability is incurred), not on some arbitrary judgment of "substantial completion".

As for retainage arrangements between a prime contractor and a subcontractor, those arrangements should be left up to those two parties.

(21) This reporting requirement is unrealistic, considering the value of the payments involved and degree of the prompt-pay problem (both of which are considered too low for the burdensome reporting requirement stated in the provision).

(24) (Same comment as for (21) above.)

Appendix N

INCUBATOR STATUTES

Illinois Statutes

SMALL BUSINESS INCUBATOR ACT

Cross References

Grants and loans, small businesses, see
§ 2709-3 of this chapter.

2711-1. Short title

§ 11-1. Short Title. This Article shall be known and may be cited as the "Illinois Small Business Incubator Act".
P.A. 84-109, Art. 11, § 11-1, eff. July 25, 1985.

Title of Act:

An Act to foster business development and modernization of infrastructure through the Build Illinois Program and to provide for the financing thereof, amending Acts therein named. P.A. 84-109, Art. 11, approved and eff. July 25, 1985.

2711-2. Definitions

§ 11-2. Definitions. As used in this Article:

(a) "Small business incubator" or "Incubator" means a property described in Sections 11-7 and 11-8.¹

(b) "Community Advisory Board" or "Board" means a board created pursuant to Section 11-4.²

(c) "Department" means the Illinois Department of Commerce and Community Affairs.

(d) "Educational institution" means a local school district, a private junior college or university, or a State supported community college or university within the State.

(e) "Local governmental unit" means a county, township, city, village or incorporated town within this State.

(f) "Non-profit organization" means local chambers of commerce, business and economic development corporations and associations, and such other similar organizations so designated by the Department.

(g) "Sponsor" means an educational institution, local governmental unit or non-profit organization which receives Department funds under this Article.

(h) "Costs of establishment" means the actual costs of acquisition, whether by lease, purchase or other devices, and of construction and renovation of the incubator.

(i) "Costs of administration" means the costs of wages or salary for the incubator manager and related clerical and administrative costs.

P.A. 84-109, Art. 11, § 11-2, eff. July 25, 1985.

¹ Paragraphs 2711-7 and 2711-8 of this chapter.

² Paragraph 2711-4 of this chapter.

Literary References

Words and Phrases (Perm.Ed.)

2711-3. Incubator benefits

§ 11-3. Incubator Benefits. A small business incubator shall provide the following benefits to its tenants:

(a) Physical space within the incubator;

(b) Business and management assistance, agreed upon by the sponsor and the Department, which may include access to local experts in professional areas such as bookkeeping, legal services, accounting, financing, product marketing, engineering and other business support services;

(c) Facility services, agreed upon by the sponsor and the Department, available within the incubator, which may include but are not limited to typing and reception; cleaning and building security; conference, laboratory and library facilities; and duplicating machines, computers and other electronic equipment; and

(d) As determined by the sponsor, certain professional services which focus on but are not limited to: information on government small business regulations; basic management skills; detailed advertising, promotion, marketing and sales information; control of inventory levels; recruitment of employees; labor relations; and financial counseling in areas such as venture capital, risk management, taxes, insurance and qualifying for government small business loans.

P.A. 84-109, Art. 11, § 11-3, eff. July 25, 1985.

2711-4. Community Advisory Board

§ 11-4. Community Advisory Board. (a) A local governmental unit, non-profit organization or educational institution that desires to have an unoccupied or nearly unoccupied building or site designated, in whole or in part, as a small business incubator shall appoint, in conjunction with local governmental units, educational institutions, private individuals or organizations or other entities that agree to contribute monetarily or in-kind to the incubator, a Community Advisory Board to perform the duties required of the Board by this Article.

(b) A local governmental unit, non-profit organization or educational institution may designate the board of an existing, consenting economic development entity, such as a local development corporation or a chamber of commerce, as the Community Advisory Board.

(c) The Community Advisory Board shall be of a size that the appointing body determines to be appropriate. The members of the Community Advisory Board shall consist of representatives from key segments of the community, including but not limited to government, finance, business, labor and education. The Board shall elect from its members a chairperson.

(d) An existing board of an economic development entity designated as a Community Advisory Board pursuant to subsection (b) must meet the composition requirements of subsection (c).

(e) Community Advisory Board members shall serve without compensation and shall serve at the pleasure of the appointing body or until the Community Advisory Board's task is completed, whichever occurs first.

P.A. 84-109, Art. 11, § 11-4, eff. July 25, 1985.

2711-5. Board duties

§ 11-5. Board Duties. (a) Upon appointment, the Community Advisory Board shall:

(1) Identify the property under consideration for designation as a small business incubator;

(2) Market the concept of a small business incubator in the surrounding area;

(3) Solicit the views of the community concerning the designation of the property under consideration as a small business incubator;

(4) Identify probable tenants for the small business incubator; and

(5) Obtain commitments from persons, organizations, businesses, local governmental units or other sources for a share of those costs not covered by rental fees or grants and for other types of incubator support.

(b) If, after performing the duties required by subsection (a), the Board determines that a designation of the property under consideration as a small business incubator is desirable and possible, the Board shall notify the Department of its intent to conduct a feasibility study.

P.A. 84-109, Art. 11, § 11-5, eff. July 25, 1985.

2711-6. Feasibility study and petition

§ 11-6. Feasibility Study and Petition. (a) After filing a notice with the Department pursuant to Section 11-5,¹ the Community Advisory Board, with the advice of the Department, shall conduct, complete and deliver to the Department, within time lines given by the Department, an in-depth incubator feasibility study. The study shall include but not be limited to all of the following factors:

(1) Costs of establishment of the incubator such as necessary lease, purchase, renovation or construction costs associated with the site and structures;

(2) Estimated costs of maintenance of the site and structures including utility costs and costs of financing;

(3) Estimated wage and salary rates for the incubator manager and related administrative costs;

(4) Estimated costs of providing incubator benefits identified in Section 11-3;²

(5) Estimated income from the incubator including the estimated rental fees collected from lessees within the incubator, the estimated annual local cash subsidies, the value of in-kind services, the value of anticipated grants from other sources and the amount of Department funds requested;

(6) Prospects of attracting suitable businesses to the incubator and the ability of the community to develop and market the incubator; and

(7) The ability of the community to provide necessary support for the incubator, including but not limited to technical assistance and training, assistance in attracting employees, assistance in locating prospective tenants and assistance in business start-up financing.

(b) If, after performing the duties required by subsection (a), the Board determines that a designation of the property under consideration as a small business incubator is desirable, the Board shall transmit a completed copy of the feasibility study to the Department along with a petition from the local governmental unit, non-profit organization or educational institution requesting designation of the incubator.

P.A. 84-109, Art. 11, § 11-6, eff. July 25, 1985. Amended by P.A. 84-1124, § 5, eff. June 30, 1986.

¹ Paragraph 2711-5 of this chapter.

² Paragraph 2711-3 of this chapter.

P.A. 84-1124, in the first sentence of subd. (a), substituted "time lines given by the Department" for "180 calendar days".

2711-7. Government or non-profit organization sponsored incubator

§ 11-7. Government or Non-Profit Organization Sponsored Incubator. (a) In designating small business incubators sponsored by a unit of local government or non-profit organization, priority shall be given to those proposals that the Department determines:

(1) Are sponsored by a local governmental unit or non-profit organization which agrees to contribute monetarily or in-kind;

(2) Consist of an unoccupied or nearly unoccupied building or group of buildings on a contiguous site, an unimproved or partially improved site, or an existing incubator facility;

(3) Have a financial commitment of at least 50% of the projected costs for the establishment and administration of a building in a manner suitable for occupancy by small firms;

(4) Have a financial commitment for the projected unreimbursed costs of maintenance of the incubator for the first 3 years; unreimbursed costs of maintenance meaning total operating costs, excluding costs of administration, less rental receipts;

(5) Are supported by local representatives of business, labor and education;

(6) Will generate a significant number of jobs;

(7) Will provide the benefits and services identified in Section 11-3,¹ including mechanisms to provide detailed management assistance to start-up firms; and

(8) Include local funding commitments to assist in the financing of start-up firms.

(b) During the first 3 years of operation of an incubator designated pursuant to subsection (a) the Department may provide funding, subject to appropriation, for no more than 50% of the costs of establishment and administration and development and operation.

P.A. 84-109, Art. 11, § 11-7, eff. July 25, 1985. Amended by P.A. 84-1124, § 5, eff. June 30, 1986.

¹ Paragraph 2711-3 of this chapter.

P.A. 84-1124, in subd. (a)(7), added "an unimproved or partially unimproved site, or an existing incubator facility"; and in subd. (b), added "and development and operation".

2711-8. Educational institution sponsored incubator

§ 11-8. Educational Institution Sponsored Incubator. (a) In designating small business incubators sponsored by an educational institution, priority shall be given to those proposals the Department determines:

(1) Are sponsored by an educational institution which agrees to contribute monetarily or in kind;

(2) Consist of an existing incubator facility, an unoccupied or nearly unoccupied building or group of buildings on a contiguous site or unoccupied or nearly unoccupied property or unimproved or partially improved site in close proximity to the sponsoring educational institution;

(3) Have a financial commitment of at least 25% of the projected costs for the establishment and administration of a site in a manner appropriate for commercial or industrial use by advanced technology firms, including the costs of necessary laboratory structures and establishing a structure suitable for occupancy by small and medium sized advanced technology firms;

(4) Have a financial commitment for the unreimbursed costs of maintenance of the incubator for the first 3 years; unreimbursed costs of maintenance meaning total operating costs, excluding costs of administration, less rental receipts;

(5) Are supported by local representatives of business, labor and government;

(6) Will generate a significant number of jobs;

(7) Will provide the benefits and services identified in Section 11-3,¹ including mechanisms to provide detailed management assistance to start-up firms; and

(8) Include local funding commitments to assist in the financing of start-up firms.

(b) During the first 3 years of operation of an incubator designated pursuant to subsection (a), the Department may provide funding subject to appropriation, for not more than 75% of the costs of establishment and administration and development and operation.

P.A. 84-109, Art. 11, § 11-8, eff. July 25, 1985. Amended by P.A. 84-1124, § 5, eff. June 30, 1986.

¹ Paragraph 2711-3 of this chapter.

P.A. 84-1124, in subd. (a)(2), inserted "existing incubator facility, an unoccupied or nearly unoccupied building or group of buildings on a contiguous site or"; and in subd. (b), added "and development and operation".

2711-9. Department decision

§ 11-9. Department Decision. (a) The Department may designate unoccupied or nearly unoccupied properties as small business incubators for the purpose of encouraging and assisting the establishment and expansion of small businesses within this State. Designation of properties as small business incubators shall be made only upon Department receipt of a petition and feasibility study pursuant to this Article.

(b) Within 45 calendar days after receipt of the feasibility study and petition, the Department shall notify the Board of its decision to designate or withhold designation based upon the study and the criteria set forth in this Article. If the Department does not designate the property as a small business incubator, the Department shall set forth the reasons for its decision in its notification to the Board. A Board receiving a negative response may reapply for designation of the property when circumstances which led to its initial rejection have been remedied.

(c) The Department shall administer State funding for the incubators it designates. The funding may be provided in the form of a grant or an interest free or below market rate loan. The repayment of a loan may be deferred or waived by the Department so long as the incubator continues to operate. The Department shall not provide any State funding under this Article to a designated small business incubator after the incubator's first 3 years of operation.

(d) The level of funding provided to a designated incubator shall be based in part on the ability of the incubator to generate adequate financing for small businesses entering the incubator, on the potential of the incubator to create new jobs, on the amount of matching community resources provided to support the incubator and on related factors.

(e) The total amount of principal and interest due on any Department loan to an incubator shall be amortized over the life of the incubator or a maximum of 15 years.

P.A. 84-109, Art. 11, § 11-9, eff. July 25, 1985. Amended by P.A. 84-1124, § 5, eff. June 30, 1986.

P.A. 84-1124, in the third sentence of subd. (c), inserted "or waived".

2711-10. Community funding

§ 11-10. Community Funding. A local governmental unit, educational institution or other community organization, public or private, singly or cooperatively, shall

participate in the initial funding and in the maintenance of any facility that a sponsor requests to have designated as a small business incubator. The funding shall be in an amount sufficient to cover the costs of establishment, administration and maintenance that are not covered by rental fees or Department funds. The community shall provide funding assistance to the incubator as long as the facility needs such assistance to operate properly.

P.A. 84-109, Art. 11, § 11-10, eff. July 25, 1985.

2711-11. Operation of the incubator

§ 11-11. Operation of the Incubator. (a) The sponsor of a small business incubator or its agent may hold title to the incubator facility or may lease the property from the titleholder.

(b) Except as provided in subsection (c), designation of a building or site as a small business incubator shall remain in effect for 15 years unless otherwise agreed to at any time during the period of designation by the Department and the sponsor.

(c) The titleholder of a building or site designated as a small business incubator who desires to have the building or site returned to its previous use before the expiration of the 15 year designation shall notify the sponsor 5 years before the time the building will be needed. The sponsor shall notify the Department and shall publicize the closing date of the incubator, the lessees of the incubator and to the community.

(d) The local governmental unit, non-profit organization or educational institution providing the feasibility study and petition to create an incubator shall provide for the continual operation of the incubator and may enter into agreements with public or private entities or with the Community Advisory Board to recommend potential applicants pursuant to Sections 11-12 and 11-13¹ or to provide small business incubator services pursuant to Section 11-3.²

(e) The incubator sponsor may reserve a reasonable portion of the incubator facility for related public purposes such as laboratory or research facilities or offices of the incubator manager.

(f) The incubator sponsor shall report in writing at least annually to the Department on the activities of the small business incubator. The report shall include the balance sheet and profit and loss statement of the incubator, the name of each applicant it rejects and the reasons for the rejection; the name of each applicant it favorsably evaluates, a description of the applicant's business and the number and types of jobs created; and the types of services provided within the incubator and other economic benefits.

P.A. 84-109, Art. 11, § 11-11, eff. July 25, 1985.

¹ Paragraphs 2711-12 and 2711-13 of this chapter.

² Paragraph 2711-3 of this chapter.

2711-12. Small business applications

§ 11-12. Small Business Applications. When a building is designated as a small business incubator, the incubator sponsor may begin accepting applications from persons desiring to start or expand a small business and to locate that business within a small business incubator. The application form, subject to the approval of the Department, shall request information pertaining to:

(a) The type of business that the applicant wishes to start or expand;

(b) An estimate of the number of employees the applicant will need in order to start or expand the business and a 2 year projection of future employment;

(c) The skill and educational level of the employees that the applicant plans to hire;

(d) The ability of the applicant to start or operate a successful business;

(e) A general statement as to why the applicant wishes to be accepted into the small business incubator;

(f) A signed statement by the applicant that he or she understands and accepts the obligations placed upon him or her under Section 11-14;¹ and

(g) Information that the applicant considers to be of a proprietary nature and that he or she does not want to be made public.

P.A. 84-109, Art. 11, § 11-12, eff. July 25, 1985.

¹ Paragraph 2711-14 of this chapter.

2711-13. Evaluation of applicants

§ 11-13. Evaluation of Applicants. (a) The incubator sponsor shall evaluate all applicants who want to start or expand a small business and to locate within the small business incubator. The evaluation of applicants shall be based upon, but not be limited to, all of the following factors:

(1) The likelihood that the business will be profitable;

(2) Whether the product to be manufactured or the service to be rendered would be new or improved;

(3) Whether the potential market for the product or service is regional, statewide or national;

(4) The likelihood that the business will generate a significant number of new jobs and not eliminate existing community or area jobs;

(5) Certification that the business is a new plant start-up or new venture opportunity and is not an area or regional relocation of an existing business, unless that relocation results in substantial growth of the business;

(6) The likelihood that the business will be substantially aided by its location in the small business incubator.

(b) The incubator sponsor shall forward to each local governmental unit, educational institution or other agency that has agreed to contribute monetarily or in-kind to the incubator, and to each applicant for incubator space that it favorsably evaluates, notification of its decision and whether space exists.

(c) The incubator sponsor shall notify each applicant it rejects and shall provide the reasons for the rejection.

P.A. 84-109, Art. 11, § 11-13, eff. July 25, 1985.

2711-14. Lessee responsibilities

§ 11-14. Lessee Responsibilities. A business which leases space within a designated incubator shall do all of the following:

(a) Pay rent determined by the incubator sponsor. The sponsor may agree to have the rent for a predetermined number of months payable at a later date by which time the business is expected to have received committed starting capital.

(b) Pay utilities and other associated costs determined by the sponsor.

(c) Make every effort to relocate to a permanent location not later than 36 months after entering a small business incubator. A business may request suspension of this requirement for periods of not more than 12 months at a time. The sponsor may suspend the requirement for 12 months at a time upon a determination that a business still requires the services of the incubator.

P.A. 84-109, Art. 11, § 11-14, eff. July 25, 1985.

2711-15. Department responsibilities

§ 11-15. Department Responsibilities. The Department shall work closely with the designated small business incubators, offering advice and assistance when possible, and shall promote, through advertising and other appropriate means, the concept, benefits and availability of small business incubators. The Department shall cooperate with the Community Advisory Boards, local governmental units, non-profit organizations and educational institutions to effectuate the purposes of this Article. The Department, if it finds that a Community Advisory Board or sponsor of an incubator is not operating in compliance with this Article, may withdraw State funding from the incubator. The Department shall report each January 1 to the Governor and the committees of the Senate and House of Representatives responsible for economic development as to the operations of the preceding fiscal year and the implementation of this Article. This shall include information relating to the number of applicants accepted into small business incubators, the number of small businesses in operation at the time of the report, and the structure and operations characteristics of each incubator.

P.A. 84-109, Art. 11, § 11-15, eff. July 25, 1985.

2711-16. Open meetings and confidentiality

§ 11-16. Open Meetings and Confidentiality. (a) Except as provided in subsection (c), the business of the Community Advisory Board or the incubator sponsor or its agent with respect to meeting the requirements of this Article shall be conducted in compliance with the Open Meetings Act.¹ Public notice of the time, date and place of meetings shall be given in the manner required by the Open Meetings Act.

(b) Except as provided in subsection (c), any written materials prepared, owned, used, possessed by or retained by the Community Advisory Board or the sponsor or its agent in the performance of an official function shall be made available to the public in compliance with The Freedom of Information Act.²

(c) The Community Advisory Board or the sponsor or its agent shall not disclose, either orally or in writing, matters of a proprietary nature such as commercial or financial information, trade secrets and confidential personal information without the consent of the party submitting the information.

P.A. 84-109, Art. 11, § 11-16, eff. July 25, 1985.

¹ Chapter 102, § 41 et seq.

² Chapter 116, § 201 et seq.

2711-17. Federal programs

§ 11-17. Federal Programs. The Department is authorized to accept and expend federal monies pursuant to this Article except that the terms and conditions hereunder which are inconsistent with or prohibited by the federal authorization under which such monies are made available shall not apply with respect to the expenditures of such monies.

P.A. 84-109, Art. 11, § 11-17, eff. July 25, 1985.

Michigan Statutes

BUSINESS INCUBATION ACT

Caption editorially supplied

P.A.1984, No. 198, Imd. Eff. July 3

AN ACT to encourage and assist in the establishment and expansion of certain small businesses within this state through the creation of business incubation centers; to provide for community boards and to prescribe their powers and duties; to prescribe the duties of the department of commerce; to prescribe the duties of, and certain benefits provided to, lessees of business incubation centers; and to make an appropriation.

The People of the State of Michigan enact:

125.1571. Short title

Sec. 1. This act shall be known and may be cited as the "Michigan business incubation act".

P.A.1984, No. 198, § 1, Imd. Eff. July 3.

Executive Order No. 1983-16, December 19, 1983, establishing the Governor's Entrepreneurial and Small Business Commission, as amended by Executive Order No. 1986-9, Imd. Eff. June 12, 1986, provides:

"WHEREAS, Michigan's small businesses are an integral and important part of the state's economy; and

"WHEREAS, over 95 percent of Michigan's business community consists of small businesses which form the foundation of Michigan's economy; and

"WHEREAS, the vast majority of new jobs created in this state are created by small businesses; and

"WHEREAS, emphasis in Michigan's economy is undergoing a significant shift toward reliance on small, innovative technology and service-based companies; and

"WHEREAS, many of the newer technologies and innovations are created by Michigan's small businesses and entrepreneurs; and

"WHEREAS, the state's economy cannot thrive without a business climate that is conducive to the small entrepreneur; and

"WHEREAS, a partnership between Michigan's small businesses, entrepreneurs and state government will enable the Michigan economy to be rebuilt and diversified and enable all parties to share in moving Michigan forward;

"NOW, THEREFORE, I, JAMES J. BLANCHARD, Governor of the State of Michigan, pursuant to the authority vested in me by the Michigan Constitution of 1963, Article V, Section 4, do hereby order the establishment of the Governor's Entrepreneurial and Small Business Commission.

"It is further ordered that the commission be composed of at least 25 members to be appointed by the Governor. A majority of the members shall be entrepreneurs and small business owners or operators. All members shall be appointed by the Governor for a two-year term. Any member may be reappointed for an additional two-year term. Members shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

"It is further ordered that the Governor's Entrepreneurial and Small Business Commission have the following duties and responsibilities:

- "1. To advise and assist the Governor and the Commerce Department Director on issues, proposals, policies and appointments which impact small businesses and entrepreneurs.
- "2. To review existing and future business related statutes and regulations.
- "3. To advise the Governor and the Commerce Director on the role and impact of small business programs throughout state government.
- "4. To advise and assist with the development and implementation of new programs for small businesses and entrepreneurs.

"5. To suggest potential vehicles to expand the role of small businesses and entrepreneurs throughout state government.

"6. To perform such other related advisory functions as assigned by the Governor.

"It is further ordered that the commission be co-chaired by small business owners and entrepreneurs. Annual operating funds for the activities of the Commission shall be included in the budget of the Commerce Department.

"It is further ordered that all state departments and agencies cooperate with the Commission in the performance of its responsibilities and duties."

125.1572. Definitions

Sec. 2. As used in this act:

(a) "Business incubation center" or "center" means a building described in section 3.¹

(b) "Community board" or "board" means a board created pursuant to section 4.²

(c) "Department" means the department of commerce.

(d) "Educational institution" means a local school district, an intermediate school district, or a college, university, community college, or junior college within this state.

(e) "Local governmental unit" means a county, township, city, or village within this state.

P.A.1984, No. 198, § 2, Imd. Eff. July 3.

¹ Section 125.1573.

² Section 125.1574.

125.1573. Designation of centers; priority

Sec. 3. (1) Upon receipt of a petition from a community board pursuant to section 5,¹ the department shall designate, in whole or in part, not more than 10 vacant or nearly vacant buildings as business incubation centers for the purpose of encouraging and assisting, as described in this act, the establishment and expansion of small businesses within this state. A community board described in section 4,² a local governmental unit, or an educational institution may hold title to the building or may lease the building from the title holder.

(2) In designating business incubation centers, priority shall be given to those proposals that the department determines conform with all of the following:

(a) Will generate a significant number of jobs.

(b) Are supported by 2 or more proximate local governmental units, or 1 local governmental unit and at least 1 educational unit, each of which agrees to contribute monetarily or in kind to the center.

(c) Are supported by local representatives of business, labor, and education.

(d) Have financial commitment of at least 50% of the projected unreimbursed costs of the establishment and maintenance of the center for a 3-year period. As used in this subdivision:

(i) "Costs of the establishment" includes the fair market rental value of the center.

(ii) "Unreimbursed costs" means total costs less rental receipts.

P.A.1984, No. 198, § 3, Imd. Eff. July 3.

¹ Section 125.1575.

² Section 125.1574.

125.1574. Appointment of board; composition; open meetings; writings available to public

Sec. 4. (1) A local governmental unit or educational institution or other organization that desires to have a vacant or nearly vacant building designated, in whole or in part, as a business incubation center shall appoint, in conjunction with local governmental units or private organizations that agree to contribute monetarily or in kind to the center, a community board to perform the duties required of the board by this act. A local governmental unit or educational institution may designate an existing board of an economic development entity, such as an economic development corporation created pursuant to the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, a downtown development authority created pursuant to Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, or other similar economic development entity, upon consent of that entity, as the community board.

(2) Except as provided in subsection (3), the board shall be of a size that the appointing bodies determine to be appropriate, but shall consist of not more than 15 persons. The members of the board shall consist of representatives from key segments of the community, including, but not limited to, political, financial, business, labor, and educational representatives. The board shall elect from its members a chairperson.

(3) An existing board of an economic development entity designated as a community board pursuant to subsection (1) need not meet the number requirements of subsection (2), but must meet the composition requirements of subsection (2).

(4) Board members shall serve without compensation and shall serve at the pleasure of the appointing bodies or until the board's task is completed, whichever occurs first.

(5) Except as provided in subsection (7), the business which the board may perform shall be conducted at a public meeting held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(6) Except as provided in subsection (7), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(7) The board shall not disclose, either orally or in writing, matters of a proprietary nature without the consent of the applicant or lessee submitting the information.

P.A.1984, No. 198, § 4, Imd. Eff. July 3.

125.1575. Duties of board upon appointment; petition for designation

Sec. 5. (1) Upon appointment, the community board shall do all of the following:

(a) Identify the building or part of the building under consideration for designation as a business incubation center.

(b) Advise the concept of a business incubation center in the surrounding area.

(c) Solicit the views of the community concerning the designation of the building or part of the building under consideration as a business incubation center.

(d) Identify possible tenants for the center.

(e) Obtain commitments from persons, organizations, businesses, local governmental units, or other sources amounting to at least 50% of those costs not covered by rental fees that the board estimates will be needed for the establishment and operation of the business incubation center for 3 years.

(2) If, after performing the duties required by subsection (1), the board determines that a designation of the building under consideration as a business incubation center is desirable and possible, the board shall petition the department for the designation.

P.A.1984, No. 198, § 5, Imd. Eff. July 3.

125.1576. Feasibility study; notification of decision; reapplication

Sec. 6. (1) After filing a petition pursuant to section 5,¹ the community board, in cooperation with the department, shall conduct and complete within 180 calendar days an in-depth center feasibility study. The study shall include, but not be limited to, all of the following factors:

(a) Necessary lease, purchase, renovation, or construction costs.

(b) Estimated rental costs for lessees of the center.

(c) Estimated utility costs.

(d) Estimated wage or salary rates of future employees of the center, including a building manager, receptionist, typist, and security guard.

(e) Estimated income for the center, including the estimated annual local subsidies and state appropriation, and, if necessary, the cost of financing.

(f) Prospects of attracting suitable businesses to the center.

(g) The ability of the community to provide necessary support for the center, including but not limited to, technical assistance and training, assistance in attracting employees, assistance in relocating a business, assistance in business start-up, and library facilities.

(2) Within 30 calendar days after completion of the feasibility study, the department, based upon the study and the criteria set forth in section 3,² shall notify the board of its decision. If the department does not designate the building as a business incubation center, the department shall set forth the reasons for its decision in its notification letter to the board. A board receiving a negative response may reapply for designation of the building when circumstances which led to its initial rejection have been remedied.

P.A.1984, No. 198, § 6, Imd. Eff. July 3.

¹ Section 125.1575.

² Section 125.1573.

125.1577. Period of designation; early closing

Sec. 7. (1) Except as provided in subsection (2), a designation of a building as a business incubation center shall remain in effect for 15 years unless otherwise agreed to at any time during the period of designation by the department and a community board.

(2) A local governmental unit or educational institution that has a building designated as a business incubation center and that desires to have the building returned to its previous state before the expiration of 15 years shall notify the board 5 years before the time the building will be needed. Upon receipt of notification, the board shall forward a copy of the notification to the department and shall publicize the closing date of the center to the lessees of the center and to the community.

P.A.1984, No. 198, § 7, Imd. Eff. July 3.

125.1578. Application to start or expand business; waiver for existing business

Sec. 8. (1) When a building is designated as a business incubation center by the department, its community board shall accept applications from persons desiring to start or expand a small business and to locate that business within a business incubation center. The application, developed by the department, shall elicit, at a minimum, all of the following information:

(a) The type of business that the applicant wishes to start or expand.

(b) An estimate of the number of employees the applicant will need in order to start or expand the business and a 2-year projection of future employment.

(c) The skill and educational level of the employees that the applicant plans to hire.

(d) The ability of the applicant to start or operate a successful business.

(e) A general statement as to why the applicant wishes to be accepted into the business incubation center.

(f) A signed statement by the applicant that he or she understands and accepts the obligations placed upon him or her under section 11¹ if accepted into the business incubation center.

(g) Information that the applicant considers to be of a proprietary nature and that he or she does not want to be made public.

(2) An existing business located within this state is not eligible to participate in the business incubation program unless a waiver is granted for that business by the department.

P.A.1984, No. 198, § 8, Imd. Eff. July 3.

¹ Section 125.1581.

125.1579. Evaluation of center applicants; notification

Sec. 9. (1) A community board shall evaluate applicants who want to start or expand a small business and to locate within the business incubation center based upon, but not limited to, all of the following factors:

(a) The likelihood that the business will be profitable.

(b) Whether the product that would be manufactured, or the service that would be rendered, would be new or improved to the state or the area.

(c) The potential marketability of the product or service.

(d) The likelihood that the business will generate a significant number of new jobs and not eliminate existing jobs.

(e) The likelihood that new jobs generated will be filled by persons who presently are unemployed or whose skills are not in great demand.

(f) The likelihood that the business will not be started if the applicant is not accepted into the business incubation center.

(2) A board shall forward to each applicant whose application it rejects notice of its rejection, together with the reasons for the rejection.

(3) A board shall forward to each local governmental unit that has agreed to contribute monetarily or in kind to the center and to each applicant it favorably evaluates notification of its decision and of whether or not space exists to accept the applicant.

P.A.1984, No. 198, § 9, Imd. Eff. July 3.

125.1580. Annual report; management consultants

Sec. 10. (1) A community board shall report in writing at least annually to the department on the activities of the board and the center. The report shall include, at minimum, the name of each applicant whose application it rejects, together with the reasons for the rejection, and the name of each applicant whose application it favorably evaluates.

(2) A community board may hire 1 or more management consultants or contract with a management consulting firm that shall recommend possible tenants for the building and that shall provide the services described in section 12.¹

P.A.1984, No. 198, § 10, Imd. Eff. July 3.

¹ Section 125.1582.

125.1581. Duties of lessee

Sec. 11. A lessee of a business incubation center shall do all of the following:

(a) Pay rent, which amount shall be determined by the board. The board may agree to have the rent for a predetermined number of months payable at a later date by which time the business is expected to have received committed starting capital.

(b) Pay utilities as determined by the board.

(c) Make every effort to relocate to a permanent location not later than 18 months after entering a business incubation center. A business may request extensions of this requirement for periods of not more than 12 months. The board may grant extensions of up to 12 months at a time upon a determination that a business still requires the services of the center. This subdivision does not apply to support services. As used in this subdivision, "support services" means those services provided to all lessees of the center to assist them in the operation of their business. Support services includes, but is not limited to, bookkeeping, secretarial services, duplicating, and delivery.

P.A.1984, No. 198, § 11, Imd. Eff. July 3.

125.1582. Benefits received by lessee

Sec. 12. (1) In return for his or her monthly rent, a lessee of a business incubation center shall receive the following benefits:

- (a) Physical space within the center.
- (b) The services of a building management consultant or management consulting firm.
- (c) Services or facilities available within the center that are agreed upon by the board and the lessees of the center. These services and facilities may include, but are not limited to, cleaning, building security, typing, and reception services; conference, laboratory, and library facilities; duplicating machines; and computers.

(2) In addition to the benefits described in subsection (1), the center shall make available certain professional services on a fee for use basis. These services, which the building management consultant of the management consulting firm shall arrange, may include, but are not limited to, information on government regulations, basic management skills, advertising and promotion, marketing, sales, control of inventory levels, recruitment of employees, labor relations, and financial counseling in areas such as venture capital, risk management, taxes, insurance, and qualifying for government small business loans.

P.A.1984, No. 198, § 12, Imd. Eff. July 3.

125.1583. Duties of department

Sec. 13. (1) The department shall work closely with business incubation centers, offering advice and assistance when possible, and shall promote, through advertising and other appropriate means, the concept and benefits of business incubation centers and their availability.

(2) The department shall cooperate with community boards, local governmental units, and educational institutions to effectuate the purposes of this act.

(3) The department, if it finds that a community board or center is not operating in compliance with the requirements of the act, may withdraw state funding from the center.

P.A.1984, No. 198, § 13, Imd. Eff. July 3.

125.1584. State funding

Sec. 14. (1) The department shall administer state funding for the centers it designates.

(2) During the first 3 years of operation, the department shall provide funding for any designated center up to 50% of the costs of establishment and maintenance that are not covered by rental fees. The department shall not provide any state funding to a center after the center's first 3 years of operation. As used in this subsection, "costs of establishment" means the actual cost of leasing the center or the actual cost of acquisition of the center prorated over a period of not less than 15 years.

P.A.1984, No. 198, § 14, Imd. Eff. July 3.

125.1585. Appropriations to administer act

Sec. 15. The legislature annually shall appropriate a sum sufficient to implement this act.

P.A.1984, No. 198, § 15, Imd. Eff. July 3.

125.1586. Reports to legislative committees

Sec. 16. The department shall submit to the senate and house committees that have the responsibility for economic development matters 2 reports covering the effectiveness of this act, the number of applicants who were accepted into business incubation centers, and the number of such businesses in operation at the time of the writing of each report. The first report shall be submitted before January 31, 1985, and the second report before January 31, 1990.

P.A.1984, No. 198, § 16, Imd. Eff. July 3.

(8) Establish policies and criteria for the acceptance of tenants into the incubator. Retail enterprises, not-for-profit enterprises (except not-for-profit enterprises engaged in research and development), wholesale enterprises and personal service enterprises are not permitted as tenants in incubators funded through this act. Up to 20% of the useful square footage of such a facility shall be occupied by an anchor tenant who does not meet these eligibility requirements.

(9) Establish a local advisory committee to assist in the performance of these functions.

1984, July 2, P.L. 555, No. 111, § 5, *ind. effective*. As amended 1986, July 9, P.L. 1193, No. 101, § 1, *ind. effective*.

1986 Legislation

The 1986 amendment reworded cl. (8), which previously read:

"A local sponsor, or the organization receiving assistance through the local sponsor, shall have the following responsibilities and duties in establishing and operating an incubator with assistance from this program:

(1) Secure title on the facility or a lease with the intent to secure title to the facility.

(2) Manage the physical development of the incubator facility, including the provision of common conference or meeting space.

(3) Furnish and equip the facility to provide business services to the tenants.

(4) Market the facility and secure eligible tenants.

(5) Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants of the incubator, including assistance in accessing private financial markets.

"(6) Set rental and service fees.

"(7) Encourage the sharing of ideas between tenants and otherwise aid the tenants in an innovative manner while they are within the incubator.

"(8) Establish policies and criteria for the acceptance of tenants into the incubator and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants, consistent with the other criteria specified in this act. Retail enterprises, not-for-profit enterprises, wholesale enterprises and personal service enterprises are not permitted as tenants in incubators funded through this act.

"(9) Establish a local advisory committee to assist in the performance of these functions."

Section 3 of Act 1986, July 9, P.L. 1193, No. 101, provides as follows:

"The provisions of this amendatory act shall be retroactive to April 1, 1986, and shall apply to all applications approved on or after April 1, 1986."

§ 395.6. Challenge grants for seed capital funds

(a) Purpose.—The board is authorized to award challenge grants for the purposes of establishing seed capital funds to assist young small businesses, including businesses in incubators, to create new jobs in this Commonwealth.

(b) Application.—Advanced technology centers or other organizations approved by the board may submit applications to receive challenge grants to assist in establishing seed capital funds. Each application shall:

(1) Describe the purposes of the proposed seed capital fund, including the types of businesses to receive investments and the types of investments to be made, consistent with subsection (c).

(2) Explain the need for the challenge grant in attracting private investment to the proposed seed capital fund.

(3) Present a plan for establishing the proposed seed capital fund, including the amount of private investment sought, the strategy for obtaining such investments and the persons or organizations who may manage the fund.

(4) List private investment commitments obtained to date.

(c) Use of funds.—The board may award challenge grants to eligible applicants following receipt of an application consistent with the criteria specified in this act. Recipients of grants shall not expend any of the funds awarded unless and until the board has assured itself that the following conditions hold:

(1) Either:

(i) at least \$3 of private investment has been committed to the proposed seed capital fund for every \$1 of the challenge grant awarded and at least \$3,000,000 of total investment, including the challenge grant, has been committed to the proposed fund; or

(ii) at least \$1 of private investment has been committed to the proposed seed capital fund for every \$1 of the challenge grant awarded; at least \$1.5 million of total investment, including the challenge grant, has been committed to the seed capital fund; and no investment is to be made from the fund in a small business project without an equal or greater investment from private sources other than the fund in the same small business project, such that, in total, at least \$3 of private investment has been committed to an individual small business project for every \$1 of challenge grant funds invested.

(2) Investments from the seed capital fund will be made exclusively in small businesses located in this Commonwealth, including, but not limited to, tenants of incubators. For the purposes of this section, small businesses shall not include businesses of a mercantile or services related nature, but shall include international export related services, international export related mercantile ventures and advanced technology or computer related ventures which will increase the Commonwealth's share of domestic or international markets.

(3) Total investments in a small business using seed capital funds should ordinarily be less than \$250,000 during any round of financing for a small business.

(4) The grant recipient shall serve as a limited partner or coinvestor with limited liability in the proposed fund and returns on investment of challenge grant funds shall be reinvested in the seed capital fund.

In the event that recipients of funds cannot demonstrate these conditions by June 30, 1986, the grants, or the portions thereof for which the conditions are not satisfied, shall be rescinded by the board and shall be available to the board to use for loans and loan guarantees to incubators consistent with section 4.¹

1984, July 2, P.L. 555, No. 111, § 6, *ind. effective*.

¹ Section 395.4 of this title.

§ 395.7. General powers and duties of the board

The board shall:

(1) Adopt such rules, statements of policy, procedures, forms and guidelines as may be necessary for the implementation of this act, including the encouragement of incubators in economically distressed areas such as State or federally designated enterprise zones, municipalities which meet criteria for distress as identified in section 6 of the act of July 2, 1984 (P.L. 520, No. 105), known as the Business Infrastructure Development Act,¹ and urban renewal areas designated in conformity with the act of May 24, 1945 (P.L. 991, No. 385), known as the Urban Redevelopment Law;² Provided, That it is not the intent of this act to limit the establishment of incubators to such economically distressed areas.

1984, July 2, P.L. 555, No. 111, § 7, *ind. effective*. As amended 1986, July 9, P.L. 1193, No. 101, § 1, *ind. effective*.

¹ Section 393.6 of this title.

² 33 P.S. § 1701 et seq.

1986 Legislation

The 1986 amendment added all language following "implementation of this act" in cl. (1).

Section 3 of Act 1986, July 9, P.L. 1193, No. 101, provides as follows:

"The provisions of this amendatory act shall be retroactive to April 1, 1986, and shall apply to all applications approved on or after April 1, 1986."

§ 395.8. Indicators of program impact

On or before March 1 of each year, the board shall provide a report to both the Chief Clerk of the House of Representatives and the Secretary of the Senate which shall include, but not be limited to:

(1) The number of applications for incubators submitted to the board.

(2) The number of applications for incubators approved by the board.

(3) The number of incubators created through this program.

(4) The number of tenants occupying each incubator.

(5) The number of jobs provided by each incubator and tenants of each incubator.

(6) The occupancy rate of each incubator.

(7) The number of firms still operating in the Commonwealth after leaving incubators and the number of jobs they have provided. The board shall attempt to identify the reasons why any companies have left the Commonwealth after starting in an incubator.

(8) The number of seed capital funds established with challenge grants, the amount of private investment in the funds and the number, types and amounts of investments in small firms by the funds.

1984, July 2, P.L. 555, No. 111, § 8, *ind. effective*.

§ 395.9. Nondiscrimination

No loan or loan guarantee shall be made to a small business or local sponsor unless it certifies to the board, in a form satisfactory to the board, that it shall not discriminate against any employee or against any applicant for employment because of race, religion, color, national origin, sex or age.

1984, July 2, P.L. 555, No. 111, § 9, *ind. effective*.

§ 395.10. Repealed. 1986, July 9, P.L. 1193, No. 101, § 2, effective April 1, 1986

Former § 395.10, which was added by Act 1984, July 2, P.L. 555, No. 111, § 10, related to guidelines and regulations.

§ 395.11. Appropriations

(1) The sum of \$5,000,000, or as much thereof as may be necessary, is hereby appropriated from the Pennsylvania Economic Revitalization Fund for the fiscal year July 1, 1984 to June 30, 1985, for loans and guarantees to local sponsors pursuant to section 4.¹

(2) The sum of \$3,000,000 is appropriated from the Pennsylvania Economic Revitalization Fund for the fiscal year beginning July 1, 1984, for the Seed Capital Challenge Grant Program. These funds shall not lapse until June 30, 1987.

1984, July 2, P.L. 555, No. 111, § 11, *ind. effective*.

¹ Section 393.4 of this title.

§ 395.12. Time limit on approvals

No assistance under section 4¹ shall be approved by the board after June 30, 1987.

1984, July 2, P.L. 555, No. 111, § 12, *ind. effective*.

¹ Section 393.4 of this title.

Appendix O

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